

BYLAWS
OF
THE SUMMIT ON SIXTH HOMEOWNERS ASSOCIATION

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OF
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BYLAWS
OF
THE SUMMIT ON SIXTH HOMEOWNERS ASSOCIATION

ARTICLE I

1. Plan of Condominium Ownership.

1.1 Name.

The name of the corporation is THE SUMMIT ON SIXTH HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association." The principal office of the Association shall initially be located in the City of Los Angeles, County of Los Angeles, State of California, or at the nearest office of the management company, if any, retained by the Association.

1.2 Application.

The provisions of these Bylaws are applicable to the residential condominium project known as The Summit on Sixth ("Project"), located in Los Angeles County, California. All present and future Owners and their tenants, invitees, guests, employees, and any other person who might use the facilities of the Project in any manner, are subject to the regulations set forth in the Bylaws and in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit on Sixth ("Declaration") recorded or to be recorded in the Official Records of Los Angeles County, and as the same may be amended from time to time as provided therein. The mere acquisition or rental of any Condominium in the Project or the mere act of occupancy of any Condominium will signify that these Bylaws are accepted, ratified, and will be complied with.

1.3 Meaning of Terms.

Unless otherwise specifically provided herein, the capitalized terms in these Bylaws shall have the same meanings as are given to such terms in the Declaration.

ARTICLE II

2. Voting by Association Membership.

2.1 Voting Rights.

The Association shall have two (2) classes of voting Membership, as further provided in the Declaration.

Class A. Class A Members shall be those Owners, with the exception of Declarant, for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for each Condominium owned which is subject to assessment, as further provided

in the Declaration. When more than one person holds an interest in any Condominium, all such persons shall be Members. The vote for such Condominium shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Condominium owned by Declarant and subject to assessment, provided that the Class B Membership shall cease and be converted to Class A Membership immediately upon the first to occur of the following events:

- (1) The sale and closing of seventy-two (72) Units in the Project; or
- (2) The second (2nd) anniversary of the first Close of Escrow pursuant to the Final Subdivision Public Report for the Project.

Except as provided in Section 14.2 of the Declaration and Section 4.9 of these Bylaws, as long as there exists a Class B Membership, any provision of these Bylaws which expressly requires the vote or written consent of (i) the Owners in the Project or (ii) the Owners in the Project other than Declarant, before an action by the Association may be undertaken, shall require the approval of the prescribed majority or specified percentage of the voting power of each class of Membership. Except as provided in Section 14.2 of the Declaration and Section 4.9 of these Bylaws, when the Class B Membership has terminated, any provision of these Bylaws, the Declaration, or the Articles which expressly requires the vote or written consent of (i) the Owners in the Project or (ii) the Owners in the Project other than Declarant, before an action by the Association may be undertaken, shall require the approval of Owners representing the prescribed majority or specified percentage of both (i) the total voting power of the Association and (ii) and the voting power of the Association residing in Owners other than Declarant.

2.2 Majority of Quorum.

Unless otherwise expressly provided in these Bylaws or the Declaration, any action which may be taken by the Association may be taken by a majority of a quorum of the Members of the Association.

2.3 Quorum.

Except as otherwise provided in these Bylaws or the Declaration, the presence in person or by proxy of at least a majority of the voting power of the Membership of the Association shall constitute a quorum of the Membership. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. In the absence of a quorum at a Member's meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, as provided in Section 3.6 of these Bylaws.

2.4 Proxies.

Votes may be cast in person or by proxy and all proxies must be in writing. Every proxy shall be revocable and shall automatically cease after completion of the meeting for which the proxy was filed. Any form of proxy or written ballot distributed by any Person to the Members of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot shall provide that, when the Member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the Member or Members who are authorized to exercise the proxy and the length of time it will be valid.

2.5 Voting by Secret Ballot.

Elections regarding (i) assessments legally requiring a vote, (ii) election and removal of members of the Board of Directors, (iii) amendments to the Declaration, Articles or Bylaws, or (iv) the grant of exclusive use of the Common Property shall be held by secret ballot of the Members in the manner prescribed by Section 1363.03 of the California Civil Code.

ARTICLE III

3. Administration.

3.1 Association Responsibilities.

In accordance with the provisions of the Declaration, the Association shall have the responsibility of administering the Property, approving the Budget, establishing and collecting all assessments applicable to the Property, and arranging for overall architectural control of the Property.

3.2 Place of Meetings of Members.

Meetings of the Members shall be held on the Property, or such other suitable place as proximate thereto as practicable, in Los Angeles County, convenient to the Owners, as may be designated by the Board of Directors.

3.3 Annual Meetings of Members.

The first annual meeting of Members shall be held within forty-five (45) days after Close of Escrow for the sale of fifty-one percent (51%) of the Condominiums in the Project; provided, however, in no event shall the first annual meeting of the Members be held later than six (6) months after the Close of Escrow for the sale of the first Condominium in the Project. Thereafter, the annual meetings of the Members shall be held on or about the anniversary date of the first annual meeting. At each annual meeting there shall be elected by ballot of the Members a Board of Directors of the Association, in accordance with the requirements of Article IV, Section 4.5 of these Bylaws. The Members may also transact such other business of the Association as may properly come before them. Each first Mortgagee of a Condominium in the Project may designate a representative to attend all annual meetings of the Members.

3.4 Special Meetings of Members.

It shall be the duty of the Board to call a special meeting of the Members, as directed by resolution of a majority of a quorum of the Board of Directors, by request of the President of the Association, or upon receipt by the Secretary of a petition signed by Members representing at least five percent (5%) of the total voting power of the Association. The notice of any special meeting shall be given within twenty (20) days after adoption of such resolution or receipt of such request or petition and shall state the date, time and place of such meeting and the general nature of the business to be transacted. The special meeting shall be held not less than thirty-five (35) days nor more than ninety (90) days after adoption of such resolution or receipt of such request or petition. No business shall be transacted at a special meeting except as stated in the notice. Each first Mortgagee of a Condominium in the Project may designate a representative to attend all special meetings of the Members.

3.5 Notice of Meetings to Members.

It shall be the duty of the Secretary to send a notice of each annual or special meeting by first-class mail, at least ten (10) but not more than ninety (90) days prior to such meeting, stating the purpose thereof as well as the day, hour and place where it is to be held, to each Member of record, and to each first Mortgagee of a Condominium, which Mortgagee has filed a written request for notice with the Secretary. The notice may set forth time limits for speakers and nominating procedures for the meeting. The notice of any meeting at which Directors are to be elected shall include the names of all those who are nominees at the time the notice is given to the Members. The mailing of a notice, postage prepaid, in the manner provided in this Section, shall be considered notice served, forty-eight (48) hours after said notice has been deposited in a regular depository of the United States mail. Such notice shall be posted in a conspicuous place on the Common Property, and such notice shall be deemed served upon a Member upon posting if no address for such Member has been then furnished the Secretary. The Board of Directors may fix a date in the future as a record date for the determination of the Members entitled to notice of any meeting of Members. The record date so fixed shall be not less than ten (10) days nor more than ninety (90) days prior to the date of the meeting. If the Board does not fix a record date for notice to Members, the record date shall be the close of business on the business day preceding the day on which notice is given. Only Members who on the record date for notice of the meeting are entitled to vote thereat, shall be entitled to notice of the meeting, notwithstanding any transfer of or issuance of Membership certificates on the books of the Association after the record date. In addition, the record date for notice of the meeting shall be the record date for determining the Members entitled to vote at the meeting.

3.6 Adjourned Meetings.

If any meeting of Members cannot be organized because a quorum is not present, a majority of the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the presence in person or by proxy of the Members holding at least twenty-five percent (25%) of the voting power of the Association. Such an adjourned meeting may be held without notice thereof as

provided in this Article III, provided that notice is given by announcement at the meeting at which such adjournment is taken. If, however, such an adjourned meeting is actually attended, in person or by proxy, by Members having less than one-third (1/3rd) of the voting power of the Association, notwithstanding the presence of a quorum, no matter may be voted upon except such matters notice of the general nature of which was given pursuant to Section 3.5 hereof. No action by the Members on any such matter shall be effective if the votes cast in favor are fewer than the minimum number of votes required by the Restrictions to approve such an action.

3.7 Order of Business.

The order of business at all meetings of the Members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of Minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) election of inspector of elections (at annual meetings or special meetings held for such purpose); (g) election of Directors (at annual meetings or special meetings held for such purpose); (h) unfinished business; and (i) new business.

3.8 Action Without Meeting.

Any action, which may be taken at a meeting of the Members (except for the election of Directors) may be taken without a meeting by written ballot of the Members. Ballots shall be solicited in the same manner as provided in Section 3.5 for the giving of notice of meetings of Members. Such solicitations shall specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received in order to be counted. The form of written ballot shall afford an opportunity to specify a choice between approval and disapproval of each matter and shall provide that, where the Member specifies a choice, the vote shall be cast in accordance therewith. Receipt within the time period specified in the solicitation of a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting and a number of approvals which equals or exceeds the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast shall constitute approval by written ballot.

3.9 Consent of Absentees.

The transactions of any meeting of Members, either annual or special, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the Members not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the Minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the Minutes of the Meeting.

3.10 Minutes, Presumption of Notice.

Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the Minutes executed by the Secretary that notice of the meeting

was properly given shall be prima facie evidence that such notice was given.

ARTICLE IV

4. Board of Directors.

4.1 Number and Qualification.

The affairs of the Association shall be governed and managed by a Board of Directors, each of whom, except for those appointed and serving as first Directors, must either be an Owner or an agent of Declarant for so long as Declarant owns a Condominium in the Project. Prior to the first annual meeting of the Members, the Board shall be composed of three (3) Persons. At the first annual meeting, the Members shall elect five (5) Persons to the Board, and the Board shall thereafter be composed of five (5) Persons. The authorized number of Directors may be changed by a duly adopted amendment to the Bylaws. Directors and officers shall not receive any salary or compensation for their services as Directors and officers unless such compensation is approved by the vote or written consent of Members representing at least a majority of both the Class A and Class B voting power; provided, however, that (1) nothing herein contained shall be construed to preclude any Director from serving the Association in some other capacity and receiving compensation therefor, and (2) any Director or officer may be reimbursed for his actual expenses incurred in the performance of his duties.

4.2 Powers and Duties.

The Board of Directors has the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Members. The Board of Directors shall not enter into any contract for furnishing of goods and services to the Association for a term in excess of one (1) year, without the assent, by vote at a meeting of the Association, or by written ballot without a meeting pursuant to California Corporations Code Section 7513, of a majority of the Members constituting a quorum consisting of more than fifty percent (50%) of the voting power of the Association, except for the following matters (which shall not require such Member approval): (1) a contract with a public utility company if the rates charged for the materials or services are regulated by the California Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the public utility company will contract at the regulated rate; (2) a management contract the terms of which conform to the requirements of Section 4.4 hereof; (3) prepaid casualty or liability insurance policies of not to exceed three (3) years' duration, provided that the policies permit short term cancellation by the Association; (4) lease agreements for laundry room fixtures and equipment of not to exceed five (5) years duration provided that the lessor under any such agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more; (5) agreements for cable television services and equipment or satellite dish television services and equipment with terms not in excess of five (5) years, provided that Declarant does not have a direct or indirect ownership interest in the supplier of such services or equipment equal to or greater than ten percent (10%); (6) agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services with terms not in excess of five (5) years, provided that Declarant does not have a direct or indirect ownership interest in the supplier of such services or

equipment equal to or greater than ten percent (10%); and (7) any other contract for a term not in excess of three (3) years, provided that such contract is terminable by the Association, beginning not more than one (1) year after commencement of the contract, without cause, penalty or other obligation, upon not more than ninety (90) days written notice of termination to the other party.

4.3 Special Powers and Duties.

Without prejudice to such foregoing general powers and duties and such powers and duties as are set forth in the Declaration, the Board of Directors is vested with, and responsible for, the following powers and duties:

(a) The power and duty to select, appoint, and remove all officers, agents and employees of the Association, to prescribe such powers and duties for them as may be consistent with law, the Articles of Incorporation, the Declaration and these Bylaws; to fix their compensation and to require from them security for faithful service when deemed advisable by the Board.

(b) The power and duty to conduct, manage and control the affairs and business of the Association, and to make and enforce such rules and regulations therefor consistent with law, the Articles of Incorporation, the Declaration and these Bylaws, as the Board may deem necessary or advisable.

(c) The power but not the duty to change the principal office for the transaction of the business of the Association from one location to another; to designate any place within said County for the holding of any annual or special meeting or meetings of Members consistent with Section 3.2 hereof.

(d) With the approval of Members representing at least two-thirds (2/3rds) of the voting power of the Association, the power but not the duty to borrow money and to incur indebtedness for the purposes of the Association, and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor.

(e) The power and duty to fix and levy from time to time Annual Assessments, Special Assessments, and Reconstruction Assessments upon Members, as provided in the Declaration; to fix and levy from time to time in any Fiscal Year Capital Improvement Assessments applicable to that year only for capital improvements; to determine and fix the due date for the payment of such assessments, and the date upon which the same shall become delinquent; provided, however, that such assessments shall be fixed and levied only to provide for the payment of the Common Expenses of the Association and of taxes and assessments upon real or personal property owned, leased, controlled or occupied by the Association, or for the payment of expenses for labor rendered or materials or supplies used and consumed, or equipment and appliances furnished for the maintenance, improvement or development of such property or for the payment of any and all obligations in relation thereto, or in performing or causing to be performed any of the purposes of the Association for the general benefit and welfare of its Members, in accordance with the provisions of the Declaration. The Board of Directors is hereby authorized to incur any and all such expenditures for any of the foregoing

purposes and to provide, or cause to be provided, adequate reserves for replacements as it shall deem to be necessary or advisable in the interest of the Association or welfare of its Members. The funds collected by the Board of Directors from the Members, attributable to replacement reserves, for maintenance costs which cannot normally be expected to occur on an annual basis and for capital improvements, shall at all times be held in trust for the Members. Disbursements from such trust reserve fund shall be made only in accordance with the provisions of the Declaration. Such Annual Assessments, Reconstruction Assessments, Special Assessments and Capital Improvement Assessments shall be fixed in accordance with the provisions of the Declaration. Should any Member fail to pay such assessments before delinquency, the Board of Directors in its discretion is authorized to enforce the payment of such delinquent assessments as provided in the Declaration.

(f) The power and duty to enforce the provisions of the Declaration, these Bylaws or other agreements of the Association.

(g) The power and duty to contract for and pay for, as reasonably necessary, fire, casualty, blanket liability, malicious mischief, vandalism, errors and omissions, liquor liability and other insurance, insuring the Members, the Association, the Board of Directors and other interested parties, in accordance with the provisions of the Declaration, covering and protecting against such damages or injuries as the Board deems advisable (which may include without limitation, medical expenses of persons injured on the Common Property).

(h) The power and duty to contract for and pay for maintenance, legal, accounting, gardening, and common utilities services, and for materials and supplies and other Common Expenses relating to the Common Property, and relating to the Units only to the extent not separately metered or charged, and to employ personnel necessary for the operation of the Property, including legal and accounting services, and to contract for and pay for Improvements on the Common Property.

(i) The power but not the duty to delegate its powers according to law, and subject to the approval of the Members, to adopt these Bylaws.

(j) The power but not the duty to grant easements where necessary for utility and other purposes over the Common Property for the benefit of the Members of the Association. The power but not the duty to grant, consent to or join in the grant or conveyance of easements, licenses or rights-of-way in, on or over the Common Property for purposes not inconsistent with the intended use of the Property as a residential Condominium project, including, without limitation, the granting of exclusive easements to Owners over portions of the Common Property to conform the boundaries of the Units and/or the Common Property to the as-built location of Improvements installed or constructed by Declarant.

(k) The power and duty to adopt such Rules and Regulations as the Board may deem necessary for the management of the Project, which Rules and Regulations shall become effective and binding after (1) they are adopted by a majority of the Board at a meeting called for that purpose, or by the written consent of the Board in accordance with Section 4.13, and (2) they are posted in a conspicuous place in the Common Property. Such Rules and Regulations may concern, without limitation, use of the Common Property; signs; collection and

disposal or refuse; minimum standards of property maintenance consistent with the Declaration and the procedures of the Architectural Committee; and any other matter within the jurisdiction of the Association as provided in the Declaration; provided, however, that such Rules and Regulations shall be enforceable only to the extent that they are consistent with the Declaration, the Articles of Incorporation and these Bylaws, and the Rules and Regulations may not be used to amend any of said documents.

(l) The power and duty to keep, or cause to be kept, a complete record of all acts and corporate affairs of the Association and to present a statement thereof to the Members at the annual meeting of the Members and at any other time that such statement is requested by at least ten percent (10%) of the Members who are entitled to vote.

(m) The power but not the duty to appoint a Membership Committee composed of at least one (1) Director and at least one (1) Association Member at large. The Membership Committee shall be responsible for contacting all purchasers of Condominiums in the Project as soon as any transfer of title to a Condominium is discovered. The Membership Committee shall further attempt to establish initial contact with all Members who are delinquent in the payment of any assessments or other charges due the Association.

(n) The power but not the duty to sell or lease property of the Association; provided, however, that the prior vote or written approval of the Members representing at least a majority of the voting power of the Association must be obtained to sell during any Fiscal Year any property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

(o) The power, subject to compliance with Section 1354 of the California Civil Code, to institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation, or administrative proceedings in matters pertaining to (A) enforcement of the governing instruments, (B) damage to the Common Property, (C) damage to the Separate Interests, if any, which the Association is obligated to maintain or repair, or (D) damage to the Separate Interests which arises out of, or is integrally related to, damage to the Common Property or to the Separate Interests, if any, that the Association is obligated to maintain or repair.

(p) The power, as described in California Civil Code Section 1363.07, to grant the following exclusive use easements over any portion of the Common Property to any Member as described in California Civil Code Section 1363.07, without the consent of the majority of the Members:

(1) Easement for reconveyance of all or any portion of that Common Property to the Declarant to enable the continuation of development that is in substantial conformance with a detailed plan of phased development submitted to the Commissioner of the DRE.

(2) Easement for any grant of exclusive use that is in substantial conformance with a detailed plan of phased development submitted to the Commissioner of DRE

with the application for a public report or in accordance with the Restrictions approved by the Commissioner of the DRE.

(3) Easement for any grant of exclusive use that is for any of the following reasons:

(i) To eliminate or correct engineering errors in documents recorded with the County Recorder or on file with a public agency or utility company.

(ii) To eliminate or correct encroachments due to errors in construction of any improvements.

(iii) To permit changes in the plan of development submitted to the Commissioner of the DRE in circumstances where the changes are the result of the topography, obstruction, hardship, aesthetic considerations, or environmental conditions.

(iv) To fulfill the requirement of a public agency.

(v) To transfer the burden of management and maintenance of any Common Property that is generally inaccessible and is not of general use to the membership at large of the Association.

(vi) Any grant in connection with an expressly zoned industrial or commercial development, or any grant within a subdivision of the type defined in California Civil Code Section 1373.

4.4 Management Agent.

The Board of Directors may engage a professional Manager for the Association at a compensation established by the Board to perform such duties and services as the Board shall authorize. The maximum term of any such contract ("Management Contract") shall be one (1) year, unless such Management Contract provides for its termination by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days' written notice to the other party, in which case the maximum term of the Management Contract shall be three (3) years. The maximum term of any contract providing for Declarant's services to the Association or the Project shall also be three (3) years, and shall also provide for its termination by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days written notice to the other party.

4.5 Election and Term of Office.

(a) Directors shall be elected by secret written ballot of the Members. At the first annual meeting of the Members, new Directors shall be elected by the Members as provided in these Bylaws, and all positions on the Board of Directors shall be filled at that election. In the event that an annual meeting is not held, or the Board is not elected thereat, the Board may be elected at any special meeting of the Members held for that purpose. Each Director shall hold office until his successor has been elected or until his death, resignation, removal or judicial adjudication of mental incompetence. The term of office of the three (3) Directors receiving the

highest number of votes at the first annual meeting shall be two (2) years and the term of office of the two (2) Directors receiving the next highest number of votes at the first annual meeting shall be one (1) year (*each Director elected to fill the vacancy created by the expiration of this initial one (1) year term shall have a term of office of two (2) years*). At each annual meeting thereafter, new Directors shall be elected to fill vacancies created by the death, resignation, removal, judicial adjudication of mental incompetence or expiration of the terms of past Directors. The term of office of each Director elected to fill a vacancy created by the expiration of the term of office of the respective past Director shall be two (2) years. The term of office of each Director elected or appointed to fill a vacancy created by the resignation, death or removal of his predecessor shall be the balance of the unserved term of his predecessor. Any person serving as a Director may be reelected, and there shall be no limitation on the number of terms during which he may serve. Cumulative voting shall be used in the election of Directors for any election in which more than two (2) Directors are to be selected, subject only to the procedural prerequisites to cumulative voting in the following sentence. A member may cumulate his votes for any candidate for the Board if the candidate's name has been placed in nomination prior to the voting and if such Member, or any other Member, has given notice at the meeting prior to the voting of such Member's intention to cumulate votes. If a Member cumulates his votes, such Member may cast a number of votes equal to the Member's share of the voting power as set forth in the Declaration, multiplied by the number of Directors to be elected.

(b) Notwithstanding the foregoing, whenever (1) notice is given for an election of Directors of the Board and (2) upon such date the Members other than Declarant do not have a sufficient percentage of the voting power of the Association to elect at least one (1) Director through the foregoing cumulative voting procedure and (3) following such election, the Members other than the Declarant would not otherwise have a representative on the Board selected through the special procedure set forth in this Section 4.5(b), then such notice shall also provide for the following special election procedure. Election of one (1) Director shall be apportioned entirely to the Members other than Declarant. Any person shall be an eligible candidate for the special election upon receipt by the Secretary of a Declaration of Candidacy, signed by the candidate, at any time prior to the election. Such election shall be by secret ballot and conducted in accordance with the procedures set forth in California Civil Code Section 1363.03. The person receiving a majority of the votes cast by the Members other than Declarant shall be elected a Member of the Board in a coequal capacity with all other Directors. The remaining Directors of the Board shall be elected through the customary cumulative voting procedure outlined above.

4.6 Books, Audit.

The following financial information shall be prepared and distributed by the Board to all Members (and any Mortgagee, insurer and guarantor of a first Mortgage upon request), regardless of the number of Members or the amount of assets of the Association:

(a) A pro forma operating budget for each Fiscal Year consisting of at least the following information shall be distributed not less than thirty (30) nor more than ninety (90) days prior to the beginning of the Fiscal Year.

(1) The estimated revenue and Common Expenses of the Association computed on an accrual basis.

(2) A summary of the Association's reserves based upon the most recent review or study conducted pursuant to California Civil Code Section 1365.5, based only on assets held in cash or cash equivalents, which shall be printed in bold type and include all of the following:

(i) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component;

(ii) As of the end of Fiscal Year for which the study is prepared:

(A) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components;

(B) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components;

(C) If applicable, the amount of funds reserved from either a compensatory damage award or settlement to an association from any person or entity for injuries to property, real or personal, arising out of any construction or design defects, and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs or repair of construction or design defects. These amounts shall be reported at the end of the Fiscal Year for which the study is prepared as separate line items under cash reserves pursuant to clause (B). Instead of complying with the requirements set forth in this clause (C), an association that is obligated to issue a review of their financial statement pursuant to subdivision (b) below may include in the review a statement containing all of the information required by this clause (C).

(iii) The percentage that the amount determined for purposes of clause (B) of subparagraph (ii) is of the amount determined for purposes of clause (A) of subparagraph (ii); and

(iv) The current deficiency in reserve funding expressed on a per unit basis. The figure shall be calculated by subtracting the amount determined for purposes of clause (B) of subparagraph (ii) from the amount determined for purposes of clause (A) of subparagraph (ii) and then dividing the result by the number of separate interests within the Association, except that if assessments vary by the size or type of ownership interest, then the Association shall calculate the current deficiency in a manner that reflects the variation.

(3) A statement as to all of the following:

(i) Whether the Board has determined to defer or not undertake repairs or replacement of any major component with a remaining life of thirty (30)

years or less, including a justification for the deferral or decision not to undertake the repairs or replacement;

(ii) Whether the Board, consistent with the reserve funding plan adopted pursuant to California Civil Code Section 1365.5(e), has determined or anticipates that the levy of one (1) or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor. If so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment;

(iii) The mechanism(s) by which the Board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms; and

(iv) Whether the Association has any outstanding loans with an original term of more than one (1) year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

(4) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair and replacement of, or additions to, major components of the Common Property and facilities for which the Association is responsible. The report shall include, but need not be limited to, reserve calculations made using the formula described in paragraph (4) of subdivision (b) of California Civil Code Section 1365.2.5, and may not assume a rate of return on cash reserves in excess of 2 percent above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.

(b) Commencing January 1, 2009, a summary of the reserve funding plan adopted by the Board, as specified in paragraph (4) of subdivision (e) of California Civil Code Section 1365.5. The summary shall include notice to members that the full reserve study plan is available upon request, and the Association shall provide the full reserve plan to any Member upon request.

(c) For any Fiscal Year in which the gross income to the Association exceeds \$75,000, a review of the Association's financial statement shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy. A copy of the review of the financial statement shall be distributed within 120 days after the close of each Fiscal Year.

(d) In lieu of the distribution of the pro forma operating budget as required by subsection (a) of this Section, the Board may elect to distribute a summary of the pro forma operating budget to all Members of the Association with a written notice that the budget is available at the business office of the Association or at another suitable location within the boundaries of the Project and that copies will be provided upon request and at the expense of the Association. If any Member requests copies of the pro forma operating budget, including the items described in subsections (a)(1)-(4), to be mailed to the Member, the Association shall mail such copies to the Member at the expense of the Association by first-class United States mail

within five days. The written notice that is distributed to each of the Association Members shall be in at least 10-point bold type on the front page of the summary of the statements.

(e) In addition to financial statements, the Board shall annually distribute not less than thirty (30) days nor more than ninety (90) days immediately preceding the beginning of the Fiscal Year a statement of the Association's policies and practices in enforcing lien rights or other legal remedies against Members for defaults in the payment of Annual, Capital Improvement, Reconstruction and Special Assessments, including the recording and foreclosing of liens against Members' Condominiums.

The Association shall distribute the written notice set forth in California Civil Code Section 1365.1(b) (or any successor or replacement statute) to each Owner during the sixty- (60) day period immediately preceding the beginning of each Fiscal Year. The notice shall be printed in at least 12-point type. A Member may provide to the Association written notice by facsimile transmission or United States mail of a secondary address. If a secondary address is provided, the Association shall send any and all correspondence and legal notices required pursuant to this Section 4.6 to both the primary and secondary address.

The Board shall perform the following on at least a quarterly basis: (1) cause to be completed and review a current reconciliation of the Association's operating accounts and reserve accounts, (2) review the current Fiscal Year's actual reserve revenues and expenses compared to the Budget for the then current Fiscal Year, (3) review the income and expense statement for the Association's operating and reserve accounts, and (4) review the most current account statements prepared by the financial institutions where the Association maintains its operating and reserve accounts. The signatures of either (i) two (2) Directors of the Association, or (ii) one (1) Director and one (1) Officer of the Association (who is not also a Director) shall be required for the withdrawal of money from the Association's reserve accounts. As used in this paragraph, the term "reserve accounts" means monies that the Board has identified from its Budget for use to defray the future repair and replacement of, or additions to, those major components which the Association is obligated to maintain.

Association Records, as defined in Section 1365.2 of the California Civil Code, shall be made available for inspection and copying within the time frames specified in said Section 1365.2, by any Member, prospective purchaser of a Condominium in the Project, and any Mortgagee, insurer, and guarantor of a first Mortgage, or their duly appointed representatives at the principal office of the Association or at such other place within the Property as the Board may prescribe. In the case of the minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board, other than an executive session, shall be available to Members within thirty (30) days of the applicable Board meeting and shall be distributed to only Members upon request and payment of the fee prescribed herein. The Board shall establish reasonable rules with respect to (1) notice to be given to the custodian of the records by the Member desiring to make the inspection, (2) hours and days of the week when such an inspection may be made and (3) payment of the cost of reproducing copies of documents requested by a Member. Requesting parties shall have the option of receiving specifically identified records by electronic transmission or machine-readable storage media as long as those records can be transmitted in a redacted format that does not allow the records to be altered. The cost of duplication shall be limited to the direct cost of

producing the copy of a record in that electronic format. The Association may deliver specifically identified records by electronic transmission or machine-readable storage media as long as those records can be transmitted in a redacted format that prevents the records from being altered. The Association may withhold or redact information from the books, records, and minutes for any of the following reasons:

(a) The release of the information is likely to lead to the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property;

(b) The release of the information is likely to lead to fraud in connection with the Association;

(c) The information is privileged under law;

(d) The release of information is likely to compromise the privacy of an individual Member; or

(e) The information contains any of the following: (i) Records of a-la-carte goods or services provided to Member for which the Association received monetary consideration other than assessments; (ii) records of disciplinary actions, collection activities, or payment plans of Members other than the Member requesting the records; (iii) Any person's personal identification information, including, without limitation, social security number, tax identification number, driver's license number, credit card account numbers, bank account number, and bank routing number; (iv) agendas, minutes, and other information from executive sessions of the board of directors as described in California Civil Code Section 1363.05, except for executed contracts not otherwise privileged. Privileged contracts shall not include contracts for maintenance, management, or legal services; (v) personnel records other than the payroll records required to be provided; and (vi) interior architectural plans, including security features, for individual homes.

The Association, officers, directors, employees, agents or volunteers of the Association shall not be liable for damages to a Member or any third party as the result of identity theft or other breach of privacy because of the failure to withhold or redact that Member's information under this Section unless the failure to withhold or redact the information was intentional, willful, or negligent.

Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association, and the physical properties owned or controlled by the Association. A Director's right of inspection shall include the right to make extracts and copies of documents.

Pursuant to Section 1365.5 of the California Civil Code, at least once every three (3) years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the Project if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half (½) of the

gross Budget of the Association which excludes the Association's reserve accounts for that period. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The study required by this Section 4.6 shall at a minimum include:

(a) Identification of the major components which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years;

(b) Identification of the probable remaining useful life of the components identified in paragraph (a) directly above as of the date of the study;

(c) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (a) directly above;

(d) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (a) directly above during and at the end of their useful life, after subtracting total reserves as of the date of the study; and

(e) A reserve funding plan that indicates how the Association plans to fund the contribution identified in paragraph (d) to meet the Association's obligation for the repair and replacement of all major components with an expected remaining life of thirty (30) years or less, not including those components that the Board has determined will not be replaced or repaired. The plan shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan. The plan shall be adopted by the Board at an open meeting as described in California Civil Code Section 1363.05. If the Board determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the Board that is consistent with the procedure described in California Civil Code Section 1366.

4.7 Insurance.

Within not less than thirty (30) days nor more than ninety (90) days preceding the beginning of the Association's Fiscal Year, the Board shall distribute to all Members (and any Mortgagee, Insurer, and Guarantor of the First Mortgage upon request), regardless of the number of Members or the amount of assets of the Association, a summary of the Association's property, general liability, earthquake, flood, and fidelity insurance policies, that includes all of the following information about each policy:

- (a) The name of the insurer.
- (b) The type of insurance.
- (c) The policy limits of the insurance.
- (d) The amount of deductibles, if any.

The Association shall, as soon as reasonably practical, notify its Members by first class mail if any of the policies described above have lapsed or been canceled and not immediately replaced renewed, restored or replaced, or if there is a significant change, such as a reduction in coverage or limits, or an increase in the deductible, for any of those policies. If the Association renews any of the policies or a new policy is issued to replace an insurance policy of the Association, and where there is no lapse in coverage, the Association shall notify its Members of that fact at the next available mailing to all Members pursuant to Section 5016 of the California Corporations Code.

To the extent that the information to be disclosed pursuant to this Section 4.7 is specified in the insurance policy declaration page, the Association may meet the requirements of those subdivisions by making copies of that page and distributing it to all its Members.

The summaries distributed pursuant to this Section 4.7 shall contain, in at least 10 point bold face type, the following statements:

"This summary of the Association's policies of insurance provides only certain information, as required by subdivision (f) of Section 1365 of the California Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

4.8 Vacancies.

Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Any vacancy caused by the removal of a Director elected to office solely by the votes of Members of the Association other than Declarant may be filled by the vote or written consent of a majority of the voting power of the Association residing in Members other than Declarant. A Director may resign at any time by giving notice to the President, the Secretary or the Board. Any Director who ceases to be an Owner or an agent of Declarant shall be deemed to have resigned from the Board. A vacancy or vacancies shall be deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any Director, or in case the Members fail to elect the full number of authorized Directors at any meeting at which such election is to take place.

Any vacancy not filled by the Directors may be filled by vote of the Members at the next annual meeting of the Members or at a special meeting of the Members called for such purpose.

4.9 Removal of Directors.

At any regular or special meeting of the Members duly called, any one (1) individual Director or the entire Board may be removed prior to the expiration of their terms of office with or without cause as follows: (i) for so long as fewer than fifty (50) Condominiums are included within the Project, by the vote of Members representing a majority of the total voting power of the Association (including votes attributable to Declarant), and (ii) once fifty (50) or more Condominiums are included within the Project, by the vote of Members representing a majority of a quorum of Members. Notwithstanding the foregoing, if the entire Board of Directors is not removed as a group pursuant to a single vote, no individual Director shall be removed if the number of votes cast against his removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. If any or all of the Directors are so removed at a meeting, new Directors may be elected at the same meeting. Notwithstanding the foregoing, any Director who has been elected to office solely by the votes of Members other than Declarant pursuant to Section 4.5 herein may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in Members other than Declarant.

Notwithstanding anything to the contrary herein, any Director who has three (3) consecutive unexcused absences from regularly scheduled Board of Directors meetings, is more than sixty (60) days past due in the payment of any assessment or is in violation of any other provisions of the Association legal instruments, may be removed by the vote of a majority of the other Directors. Any Director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting. The remaining Directors may appoint another Member to fill the vacancy created by such removed Director.

4.10 Organization Meeting of Board.

An organizational meeting shall be held as soon as practicable after incorporation of the Association, and the directors elected then shall hold office until the first annual meeting of the Members of the Association. All offices of the Board shall be filled at the organizational meeting. After the first annual meeting of the Members, the first regular meeting of a newly elected Board of Directors shall be held within ten (10) days of election of the Board, at such place as shall be fixed and announced by the Directors at the meeting at which such Directors were elected, for the purpose of organization, election of officers and the transaction of other business. No notice shall be necessary to the newly elected Directors in order legally to constitute such meeting; provided that (1) a majority of the whole Board shall be present when the date, time and place are announced at the membership meeting and (2) the meeting is held on that same date and at that same time and place as announced at the meeting of the Members at which the newly constituted Board was elected.

4.11 Regular Meetings of Board.

Regular meetings may be held at such time and place within the Project as shall be determined, from time to time, by a resolution adopted by a majority of a quorum of the Directors; provided, however, that such meetings shall be held no less frequently than every six (6) months. Notice of the time and place of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, facsimile or electronic mail, and posted at a prominent place or places within the Common Property at least four (4) days prior to the date named for such meeting. If the Common Property consists only of an easement or is otherwise unsuitable for posting of such notice, the Board shall communicate the notice of the time and place of such meeting by any means it deems appropriate. The notice shall contain the agenda for the meeting.

4.12 Special Meetings of Board.

Special meetings of the Board shall be held when called by written notice signed by the President of the Association, by any two (2) members of the Board other than the President. The notice shall specify the time and place of the meeting and the nature of any special business to be considered, which shall not be less than four (4) days from the date of such notice if given by first class mail or forty-eight (48) hours from the date of such notice if the notice is given by any other method set forth below; provided, however, that notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall be given by first class mail, personal delivery or overnight courier, telephone (including a voice message system or other system of technology designed to record and communicate messages, facsimiles, electronic mail or other electronic means to all directors at the address, telephone or facsimile number or electronic mail address appearing on the books of the Association as given by the Director for purpose of notice.

If served by mail, each such notice shall be sent, postage prepaid, to the address of each Director reflected on the records of the Association, and shall be deemed given, if not actually received earlier, at 5:00 o'clock p.m. on the second day after it is deposited in a regular depository of the United States mail as provided herein. Whenever any Director has been absent from any special meeting of the Board, an entry in the Minutes to the effect that notice has been duly given shall be conclusive and incontrovertible evidence that due notice of such meeting was given to such Director, as required by law and as provided herein.

4.13 Member Participation at Board Meetings: Minutes of Board Meetings.

Regular and special meetings of the Board of Directors shall be governed by the provisions of Section 1363.05 of the California Civil Code, which shall be known and may be cited as the Common Interest Development Open Meeting Act.

(a) Any Member of the Association may attend regular or special meetings of the Board of Directors of the Association, except when the Board adjourns to executive session to consider litigation, matters relating to the formation of contracts with third parties, Member discipline, personnel matters, or to meet with a Member, upon the Member's request, regarding the Member's payment of assessments, as specified in Section 1367 or 1367.1 of the California

Civil Code. The Board of Directors of the Association shall meet in an executive session, if requested by a Member who may be subject to a fine, penalty, or other form of discipline, and the Member shall be entitled to attend the executive session.

(b) Any matter discussed in executive session shall be generally noted in the minutes of the immediately following open meeting.

(c) The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board of Directors of the Association, other than an executive session, shall be available to the Members within thirty (30) days of the meeting.

The minutes, proposed minutes, or summary minutes shall be distributed to any Member of the Association upon request and upon reimbursement of the Association's costs for making that distribution.

(d) Members of the Association shall be notified in writing at the time that the pro forma operating budget required in Section 1365 of the California Civil Code is distributed, or at the time of any general mailing to the entire Membership, of their right to have copies of the minutes of meetings of the Board of Directors, and how and where those minutes may be obtained.

(e) As used in this section, "meeting" includes any congregation of the majority of the members of the Board at the same time and place to hear, discuss, or deliberate upon any item of business scheduled to be heard by the Board, except those matters that may be discussed in the executive session.

(f) An emergency meeting of the Board may be called by the President of the Association, or by any two (2) Members of the governing body other than the President, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board, and which of necessity make it impracticable to provide notice as required by this Section.

(g) The Board shall permit any Member of the Association to speak at any meeting of the Association or the Board, except for meetings of the Board held in executive session. A reasonable time limit for all Members of the Association to speak to the Board or before a meeting of the Association shall be established by the Board.

(h) Except as provided in subsection (i) below, the Board may not discuss or take action on any item at a non-emergency meeting unless the item was placed on the agenda included in the notice that was posted and distributed pursuant to Section 4.11 above.

(i) The Board may take action on any item of business not appearing on the agenda under any of the following conditions:

(1) Upon a determination made by a majority of the Board present at the meeting that an emergency situation exists;

(2) Upon a determination made by the Board by a vote of two-thirds of the Members present at the meeting, or, if less than two-thirds of total membership of the board is present at the meeting, by a unanimous vote of the Members present, that there is a need to take immediate action and that the need for action came to the attention of the Board after the agenda was posted; or

(3) The item appeared on an agenda that was posted and distributed pursuant to Section 4.11 for a prior meeting of the Board that occurred not more than thirty (30) calendar days before the date that action is taken on the item and, at the prior meeting, action on the item was continued to the meeting at which the action is taken.

4.14 Waiver of Notice.

Before or at any meeting of the Board of Directors, any Director may, in writing, waive personal notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice to such Director. Attendance by a Director at any meeting of the Board shall be a waiver by him of personal notice of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to Directors shall be required and any business may be transacted at such meeting. The transaction of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if (1) a quorum be present, (2) notice to the Members of such meeting was posted as provided in Sections 4.10 and 4.11 above, and (3) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding such meeting, or an approval of the Minutes thereof. All such waivers, consents and approvals shall be filed with the records of the Association or made a part of the Minutes of the meeting.

4.15 Action Without Meeting.

Any action required or permitted to be taken by the Board may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the Minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors. An explanation of any action taken by unanimous written consent without a meeting shall be posted by the Board in a prominent place or places in the Common Property within three (3) days after the written consents of all Directors have been obtained. If the Common Property consists only of an easement or is otherwise unsuitable for posting the explanation of the action taken, the Board shall communicate said explanation by any means it deems appropriate.

4.16 Quorum and Adjournment.

Except as otherwise expressly provided herein, at all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting to another time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

The Board of Directors may, with the approval of a majority of a quorum of the Directors, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

4.17 Committees.

The Board of Directors, by resolution, may from time to time designate such committees as it shall desire, and may establish the purposes and powers of each such committee created. The resolution designating and establishing the committee shall provide for the appointment of its members, as well as a chairman, shall state the purposes of the committee, and shall provide for reports, termination, and other administrative matters as deemed appropriate by the Board.

4.18 Administration of Association's Civil Claims.

Subject to any contrary provisions of the Declaration and these Bylaws, if any, the Board may institute, defend, settle or intervene on behalf of the Association in litigation, arbitration, mediation or administrative proceedings in matters pertaining to (a) enforcement of the Project documents, or (b) damage to the Common Property.

ARTICLE V

5. Officers.

5.1 Designation.

The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer, and an Assistant Secretary, and such other officers as in their judgment may be necessary. Officers other than the President need not be Directors. Any Person may hold more than one office.

5.2 Election of Officers.

The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors, and each officer shall hold his office at the pleasure of the Board of Directors, until he shall resign or be removed or otherwise disqualified to serve or his successor shall be elected and qualified to serve.

5.3 Removal of Officers.

Upon an affirmative vote of a majority of the entire Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary of the Association. Any such resignation shall take effect at the date of

receipt of such notice or at any later time specified therein; and unless otherwise specified in said notice, acceptance of such resignation by the Board shall not be necessary to make it effective.

5.4 Compensation.

Officers, agents, and employees shall receive such reasonable compensation for their services as may be authorized or ratified by the Board; provided, however, that no officer shall receive any compensation for services performed in the conduct of the Association's business unless such compensation is approved by the vote or written consent of Members representing at least a majority of the voting power of the Association; and provided further, that (1) nothing herein contained shall be construed to preclude any officer from serving the Association in some other capacity and receiving compensation therefor, and (2) any officer may be reimbursed for his actual expenses incurred in the performance of his duties. Appointment of any officer, agent, or employee shall not of itself create contractual rights of compensation for services performed by such officer, agent, or employee. Notwithstanding the foregoing, no officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation.

5.5 President.

The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the President of an Association, including but not limited to the power, subject to the provisions of Article IV, Section 4.15, to appoint committees from among the Members from time to time as the President may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business of the Association. The President shall be ex officio a member of all standing committees, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws of the Association.

5.6 Vice President.

The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or disabled or whenever the President refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors or these Bylaws of the Association.

5.7 Secretary.

The Secretary shall keep the Minutes of all meetings of the Board of Directors and the Minutes of all meetings of the Association at the principal office of the Association or at such other place as the Board of Directors may order. The Secretary shall have charge of such books and papers as the Board of Directors may direct; and the Secretary shall, in general, perform all of the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notices of meetings of the Members of the Association and of the Board of Directors

required by these Bylaws or by law to be given. The Secretary shall maintain a record book of Owners, listing the names, mailing addresses and telephone numbers of Owners, as furnished to the Association, and such books shall be changed only at such time as satisfactory evidence of a change in ownership of a Condominium is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

5.8 Treasurer.

The Treasurer shall be the chief financial officer of the Association and shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records and business transactions of the Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors, in accordance with the Declaration, shall render to the President and Directors, upon request, an account of all of his or her transactions as Treasurer and of the financial conditions of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws. The Treasurer shall sign all checks and promissory notes; provided, however, that the Treasurer need not do so if persons other than the Treasurer are authorized by the Board to do so in accordance with Section 11.1 or 11.2 hereof.

ARTICLE VI

6. Obligations of the Members.

6.1 Assessments.

(a) Each Member is obligated to pay, in accordance with the provisions of the Declaration, all assessments imposed by the Association, to meet all expenses of the Association. Any assessments which are not paid when due shall be delinquent.

(b) All delinquent assessments shall be enforced, collected or foreclosed in the manner provided in the Declaration.

6.2 Maintenance and Repair.

(a) Every Member must perform promptly, at his sole cost and expense, such maintenance and repair work within his own Unit, as required under the provisions of the Declaration.

(b) As further provided in the Declaration, each Member shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the Common Property, which is damaged through the fault of such Member or his Family, guests, tenants or invitees. Such expenditures shall include all court costs and reasonable attorneys' fees incurred in enforcing any provision of these Bylaws or the Declaration.

ARTICLE VII

7. Amendments to Bylaws.

These Bylaws may be amended by the Association by the vote or written consent of Members, representing at least (1) a majority of the voting power of each class of the Members, and (2) a majority of the voting power of the Association residing in members other than Declarant; provided that the specified percentage of each class of the Members necessary to amend a specific Section or provision of these Bylaws shall not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision. Any election to amend these Bylaws must comply with the requirements set forth in California Civil Code Section 1363.03. In addition to the foregoing, any amendment to these Bylaws which materially affects matters delineated in Article XII or Section 13.2 of the Declaration must be approved by the Mortgagee of that percentage of first Mortgages on the Condominiums which is specified in the affected provision of Article XII or Section 13.2 of the Declaration, respectively; provided that, if an amendment to these Bylaws materially affects matters delineated in both Article XII and Section 13.2 of the Declaration or purports to amend this sentence, the amendment must be approved pursuant to the requirements of both said Article XII and Section 13.2. If the Mortgagee of a first Mortgage receives a written request from the Board to approve a proposed amendment or amendments to the Bylaws, which is delivered in the manner prescribed in the Declaration for notices to Mortgagees, and the Mortgagee does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed amendment or amendments.

ARTICLE VIII

8. Mortgagees.

8.1 Notice to Association.

Every Member who mortgages his Condominium shall notify the Association through the Manager, or through the Secretary in the event there is no Manager, of the name and address of his Mortgagee; and the Association shall maintain such information in a book entitled "Mortgagees of Condominiums." Upon request, any such Member shall likewise notify the Association as to the release or discharge of any such Mortgage.

8.2 Notice of Unpaid Assessments.

The Board of Directors of the Association shall at the request of a Mortgagee of a Condominium, report any unpaid assessments due from the Owner of such Condominium, in accordance with the provisions of the Declaration.

ARTICLE IX

9. Conflicting Provisions.

In case any of these Bylaws conflict with any provisions of the laws of the State of California, such conflicting Bylaws shall be null and void upon final court determination to

such effect, but all other Bylaws shall remain in full force and effect. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE X

10. Indemnification of Directors and Officers.

The Board may authorize the Association to pay expenses incurred by, or to satisfy a judgment or fine levied against, any present or former Director, officer, employee, or agent of the Association to the extent and under the circumstances provided in the Declaration.

ARTICLE XI

11. Miscellaneous.

11.1 Checks, Drafts and Documents.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons, and in such manner as, from time to time, shall be determined by resolution of the Board of Directors, subject to the requirements of Section 4.6 hereof for withdrawing money from the Association's reserve accounts.

11.2 Execution of Documents.

The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

11.3 Inspection of Articles and Bylaws.

The Association shall keep in its office for the transaction of business the original or a copy of its Articles of Incorporation and these Bylaws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members and all Beneficiaries, insurers and guarantors of first Mortgages.

11.4 Fiscal Year.

The Fiscal Year of the Association shall be determined by the Board of Directors, and having been so determined, is subject to change from time to time as the Board of Directors shall determine.

11.5 Membership Register.

The Association shall keep and maintain in its office for the transaction of business a register containing the name, mailing address and telephone number of each Member. Termination or transfer of membership shall be recorded in the register, together with the date on which membership ceased or was transferred, in accordance with the provisions of the Declaration.

ARTICLE XII

12. Member Discipline; Notice and Hearing Procedure.

12.1 Suspension of Privileges.

In the event of an alleged violation of the Declaration, these Bylaws or the Rules and Regulations of the Association, and after written notice of such alleged failure is delivered personally or mailed to the Member or any agent of the Member ("respondent") alleged to be in default in the manner herein provided, by first-class mail or by certified mail return receipt requested, or both, the Board of Directors shall have the right, after affording the respondent an opportunity for an appropriate hearing as hereinafter provided, satisfying the minimum requirements of Section 1363(h) of the California Civil Code, and upon an affirmative vote of a majority of all Directors on the Board, to take any one (1) or more of the following actions: (1) levy a Special Assessment as provided in the Declaration; (2) suspend said Member's voting privileges as a Member, as further provided in the Declaration; (3) enter upon a Residence to make necessary repairs, or to perform maintenance which, according to the Declaration, is the responsibility of the Owner of such Residence; (4) record a notice of noncompliance encumbering the Condominium of the respondent; or (5) suspend or condition the right of said Member to use any recreational facilities owned, operated or maintained by the Association. Any such suspension shall be for a period of not more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues. The failure of the Board to enforce the Rules and Regulations of the Association, these Bylaws or the Declaration shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth above and otherwise provided by these Bylaws shall be cumulative and none shall be exclusive. However, any individual Member must exhaust all available internal remedies of the Association prescribed by these Bylaws, or by the Rules and Regulations of the Association, before that Member may resort to a court of law for relief with respect to any alleged violation of the Declaration, these Bylaws or the Rules and Regulations of the Association by another Member, provided that the foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board or to any Member where the complaint alleges nonpayment of Annual Assessments, Special Assessments, Capital Improvement Assessments or Reconstruction Assessments.

12.2 Written Complaint.

A hearing to determine whether a right or privilege of the respondent under the Declaration or these Bylaws should be suspended or conditioned, or whether a Special

"Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying Complaint is delivered or mailed to the Board of Directors within fifteen (15) days after the Complaint, the Board of Directors may proceed upon the Complaint without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled 'Notice of Defense' to the Board of Directors at the following address:

You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact

12.3 Notice of Hearing.

"You are hereby notified that a hearing will be held before the Board of Directors of The Summit on Sixth Homeowners Association at _____ on the _____ day of _____ 20____, at the hour of _____, upon the charges made in the Complaint served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses

testifying against you. You are entitled to request the attendance of witnesses and the production of books, documents or other items by applying to the Board of Directors of the Association."

12.4 Hearing.

The hearing shall be held before the Board in executive session pursuant to this notice affording the Member a reasonable opportunity to be heard, and the accused Member shall be entitled to attend the executive session in accordance with California Civil Code Section 1363.05(b). Prior to the effectiveness of any sanction hereunder, proof of notice, and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or Director who mailed or delivered such notice. The notice requirement shall be deemed satisfied if the accused Member appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. No action against the Member arising from the alleged violation shall take effect prior to the expiration of (a) fifteen (15) days after the Member's receipt of the notice of hearing, and (b) five (5) days after the hearing required herein.

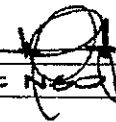
CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting Secretary of THE SUMMIT ON SIXTH HOMEOWNERS ASSOCIATION, a California nonprofit corporation ("Association"); and

2. The foregoing Bylaws comprising 30 pages, including this page, constitute the Bylaws of the Association duly adopted on Apr 24, 2008 by Consent of Directors in Lieu of First Meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 24 day of Apr., 2008.



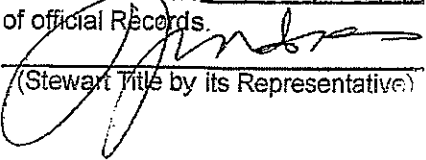
Secretary

STEWART TITLE

RECORDING REQUESTED BY, AND
WHEN RECORDED MAIL TO:

BROWN WINFIELD CANZONERI ABRAM INC.
300 S. Grand Avenue, Suite 1500
Los Angeles, CA 90071 (BP)

This document is an exact copy (not
prepared by the County Recorder) of
a CC+R'S which was
recorded in the Los Angeles County
Recorder's office on 9-16-08
as Document No. 8008-1664118
of official Records.


(Stewart Title by its Representative)

(Space Above For Recorder's Use)

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
THE SUMMIT ON SIXTH**

THIS DECLARATION CONTAINS A BINDING ARBITRATION PROVISION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT. ARBITRATION INCLUDES A WAIVER OF THE CONSTITUTIONAL RIGHT TO A JURY. YOU MUST READ THE ARBITRATION PROVISION CAREFULLY AND SHOULD CONSULT LEGAL COUNSEL WITH ANY QUESTIONS.

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AND RESERVATIONS OF EASEMENTS
FOR
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
THE SUMMIT ON SIXTH**

THIS DECLARATION is made by AZ 3223 6th STREET, LLC, a Delaware limited liability company ("*Declarant*").

P R E A M B L E:

A. Declarant is the owner of certain real property located in the City of Los Angeles ("*City*"), County of Los Angeles ("*County*"), State of California, described as follows:

Lots 1, 2 and 3 of Tract No. 65456 as shown on a Subdivision Map filed on March 19, 2008, in Book 1346 at Pages 27 to 35, inclusive, of Maps, in the Official Records of Los Angeles County.

B. It is the desire and intention of Declarant to subdivide the Property (as hereinafter defined) to create condominium estates in accordance with the Davis-Stirling Common Interest Development Act and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the condominium estates created. To such end, Declarant deems it desirable to create a corporation under the Nonprofit Mutual Benefit Corporation Law of the State of California which will be delegated and assigned the powers of owning and maintaining the Common Property (as hereinafter defined), administering and enforcing the covenants and restrictions established by this Declaration, and collecting and disbursing the assessments and charges hereinafter created.

C. Declarant hereby declares that all of the Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, reservations, rights, easements, conditions and covenants, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of the Property for the purpose of enhancing the value, desirability and attractiveness of the Property. All provisions of this Declaration, including without limitation the easements, uses, obligations, covenants, conditions and restrictions hereof, are hereby imposed as equitable servitudes upon the Property. All of the limitations, restrictions, reservations, rights, easements, conditions and covenants herein shall run with and burden the Property and shall be binding on and for the benefit of all of the Property and all Persons having or acquiring any right, title or interest in the Property, or any part thereof, and their successive owners and assigns.

D. Declarant, its successors, assigns and grantees, covenant and agree that the undivided interest in the Common Area, the membership in the Association, any easements conveyed therewith and the fee title to each respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit; provided, however, that this restriction upon the severability of the component interests of the

Condominiums shall not extend beyond the period for which the right to partition the Property is suspended in accordance with Section 1359 of the California Civil Code and the provisions of Article X hereof. Any conveyance by an Owner of a Condominium, or any portion thereof, shall be presumed to convey the entire Condominium, together with a membership in the Association.

E. The Property is part of a mixed-use complex with commercial components located on levels P1 and P2 of the Building, a residential lobby on the ground floor (which is also the P1 level) and residential condominiums on floors two through eleven. Mutually beneficial restrictions and easements for the benefit of the commercial and the residential developments are more fully described in the Reciprocal Easement Agreement described and defined herein. Declarant, on behalf of itself and its successors, assigns, and grantees, hereby acknowledges and agrees that its interest in the Property is subject to the terms of the Reciprocal Easement Agreement and all of the limitations, restrictions, reservations, rights, easements, conditions, and covenants therein shall also run with and burden the Property and all Persons having or acquiring any right, title, or interest in the Property, or any part thereof.

ARTICLE I

1. Definitions.

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration, shall have the following specified meanings.

1.1 Architectural Committee or Committee.

Architectural Committee or Committee shall mean the Architectural Review Committee created pursuant to Article IV hereof.

1.2 Articles.

Articles shall mean the Articles of Incorporation of the Association, filed in the Office of the Secretary of State of the State of California, as such Articles may be amended from time to time.

1.3 Assessment Annual.

Annual Assessment shall mean a charge against a particular Owner and his Condominium, representing his share of the total Common Expenses which are to be levied among all the Owners and their Condominiums in the Project in the manner and proportions provided herein including any assessments levied under the Reciprocal Easement Agreement and not otherwise described herein.

1.4 Assessment Capital Improvement.

Capital Improvement Assessment shall mean a charge which the Board may from time to time levy against each Owner and his Condominium, representing a portion of the cost to the Association for installation or construction of any Improvements on the Common Property.

Such charge shall be levied among all of the Condominiums in the Project in the same proportions as are Annual Assessments.

1.5 Assessment. Reconstruction.

Reconstruction Assessment shall mean a charge which the Board may from time to time levy against each Owner and his Condominium, representing a portion of the cost to the Association for reconstruction of any Improvements on the Common Property. Reconstruction Assessments shall be levied among the Owners and their Condominiums in the same proportions as Annual Assessments.

1.6 Assessment. Special.

Special Assessment shall mean (i) a charge which the Board may from time to time levy against each Owner and his Condominium in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or other purposes as the Board in its discretion considers appropriate; or (ii) a charge against a particular Owner directly attributable to, or reimbursable by, the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, or (iii) a reasonable fine or penalty assessed by the Board, plus interest and other charges on such Special Assessments as provided for in this Declaration. Special Assessments shall not include any late payment penalties, interest charges or costs (including attorneys' fees) incurred by the Association in the collection of Annual, Capital Improvement and Reconstruction Assessments.

1.7 Association.

Association shall mean The Summit on Sixth Homeowners Association, a California nonprofit corporation (formed pursuant to the Nonprofit Mutual Benefit Corporation Law of the State of California), its successors and assigns (as defined below). Concurrently with or prior to the first Close of Escrow for a Condominium in the Project, the Association shall be subject to the Reciprocal Easement Agreement and all rights and responsibilities set forth therein with respect to the Property.

1.8 Association Property.

Association Property shall mean all of the real and personal property and Improvements to which the Association shall hold fee title or over which the Association shall hold an easement for the common use and enjoyment of the Members as provided herein. The Association Property located in the Project shall include, without limitation, all of the following: (i) the Property (exclusive of the Units and the Common Areas) as more particularly described and depicted on the Condominium Plan, and all Improvements now or hereafter located thereon, and (ii) such other property or easements which are conveyed to the Association pursuant to or in connection with the operation of this Common Interest Development. The Association Property includes, without limitations, the Condominium Building (excluding the Units and the Commercial Lots) and any parking areas, common area amenities (such as the gym), common trash receptacles and areas, common hallways, common stairways, elevators and elevator shafts, perimeter walls, demising walls, bearing walls, columns, vertical supports, girders, ceiling joists, subfloors, unfinished floors, unfinished walls, roofs, slabs, foundations, foundation membranes,

common heating and cooling equipment, common water heaters, reservoirs, tanks, pumps, motors, ducts (including gas and ventilation ducts and appurtenances), flues and chutes, conduits, pipes, plumbing, ventilation systems, wires (except internal and external telephone wiring designed to serve a specific Unit exclusively, but located outside the boundaries thereof), and other utility installations (except the utility installations and outlets thereof when located within a Unit or used or operated exclusively for such Unit) required to provide power, telephone, telecommunications, cable and satellite television, light, gas, water, sewage, drainage and heat; exterior sprinklers and sprinkler pipes, landscaping, and poles. Declarant hereby expressly reserves for the benefit of the Association a nonexclusive easement for access, ingress and egress over the Property to the extent necessary to perform the maintenance, repair and replacement of the Association Property in the Project. Declarant further expressly reserves for the benefit of certain Owners exclusive easements for parking purposes over and across those portions of the Association Property constituting Exclusive Use Areas, designated for parking purposes as more particularly described in this Declaration and depicted on the Condominium Plan.

1.9 Beneficiary.

Beneficiary shall mean a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee or Beneficiary.

1.10 Board or Board of Directors.

Board of Directors or Board shall mean the Board of Directors of the Association.

1.11 Budget.

Budget shall mean a written, itemized estimate of the income and Common Expenses of the Association in performing its functions under this Declaration, which Budget shall be prepared pursuant to the Bylaws.

1.12 Bylaws.

Bylaws shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

1.13 Close of Escrow.

Close of Escrow shall mean the date on which a deed is Recorded conveying a Condominium pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the DRE.

1.14 Commercial Lots.

Commercial Lots shall mean and refer to Lots 4 through 7, inclusive, of Tract No. 65456, which are intended for commercial uses. The Commercial Lots are not part of the Property and title to the Commercial Lots will be retained by Declarant and its successors and assigns. Except as expressly stated otherwise herein, the Commercial Lots shall not be subject to any condition, covenant and/or requirement set forth in this Declaration, and shall only be

subject to the conditions, covenants, and requirements set forth in the Reciprocal Easement Agreement; provided however, the Commercial Owner(s) shall have and be entitled to exercise all rights and easements granted the Commercial Owner(s) herein.

1.15 Commercial Owner.

Commercial Owner shall mean and refer to the record owner(s), whether one or more persons or entities, including Declarant, of a Commercial Lot, excluding those having such interest merely as security for the performance of an obligation.

1.16 Common Area.

Common Area shall mean the entire Project, except the Separate Interests and the Association Property located therein. The Common Area is identified on the Condominium Plan.

1.17 Common Expenses.

Common Expenses shall mean those expenses for which the Association is responsible under this Declaration and the Reciprocal Easement Agreement, including, but not limited to, the actual and estimated costs of: maintenance, cleaning, utilities, management, operation, and repair of the Common Property; unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments; the cost of maintenance of the recreational facilities on the Common Property, the costs of any and all utilities metered to more than one Unit (if any) and other commonly metered charges for the Property, including, without limitation, the cost to maintain, repair and read any sub-meters; the cost of maintenance of clustered mailboxes and address identification signs (if any); the cost of each annual inspection of the Project; the costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all gardening, security and other services benefitting the Common Property; the costs of fire, casualty and liability insurance, workers' compensation insurance, errors and omissions and director, officer and agent liability insurance, and other insurance covering the Property and the directors, officers and agents of the Association, including earthquake insurance, if provided; the costs of bonding of the members of the Board; taxes paid by the Association, including any blanket tax assessed against the Property; amounts paid by the Association for discharge of any lien or encumbrance levied against the Property, or portions thereof; the costs incurred under the Reciprocal Easement Agreement; and the costs of any other item or items incurred by the Association, for any reason whatsoever in connection with the Property, for the common benefit of the Owners.

1.18 Common Interest Development.

Common Interest Development shall mean a "common interest development" as defined in California Civil Code Section 1351(e) and shall consist of the Project.

1.19 Common Property

Common Property shall mean the Common Area and the Association Property. Declarant hereby expressly reserves for the benefit of the Association a nonexclusive easement for access, ingress and egress over the Common Property and the Units to the extent necessary to perform the maintenance, repair, and replacement of the Common Property in accordance with this Declaration.

1.20 Condominium.

Condominium shall mean an estate in real property as defined in California Civil Code Section 1351(f), and shall consist of an undivided fee simple ownership interest in the Common Area, together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto, including easements for Exclusive Use Areas. Subject to the provisions of Section 11.4 hereof, the undivided fractional fee simple interest in the Common Area (i) shall be appurtenant to each Unit; (ii) shall be a fraction having one (1) as its numerator and the total number of Units in the Project, ninety-six (96), as its denominator; and (iii) shall be held by the Owners of Condominiums in the Project as tenants in common.

1.21 Condominium Building.

Condominium Building shall collectively mean the building containing the residential Units and Association Property within the Project and the Commercial Lots.

1.22 Condominium Plan.

Condominium Plan shall mean the Recorded plan for the Project, as such may be amended from time to time, consisting of (1) a description or survey map of the Project or portion thereof, which shall refer to or show monumentation on the ground, (2) a three-dimensional description of the Project or portion thereof, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the Common Area, the Association Property, each Separate Interest, as applicable, and (3) a certificate consenting to the recordation thereof signed and acknowledged by the record owner of fee title to the Property, and by either the trustee or the Beneficiary of each Recorded Deed of Trust, and the Mortgagee of each recorded Mortgage encumbering the Project or portion thereof.

1.23 Declarant.

Declarant shall mean AZ 3223 6th STREET, LLC, a Delaware limited liability company, its successors, and any Person to which it shall have assigned all or any of its rights hereunder by an express written assignment.

1.24 Declaration.

Declaration shall mean this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit on Sixth, as it may be amended from time to time.

1.25 Declaration of Alternative Dispute Resolution.

Declaration of Alternative Dispute Resolution shall mean that certain Declaration of Alternative Dispute Resolution for The Summit on Sixth recorded concurrently herewith. Any and all claims, controversies, breaches or disputes by or between or among the Association, any Owner or Owners, and/or Declarant arising from or related to this Declaration, the Association Property, any Unit, the sale of any Unit, or any transaction related thereto shall be subject to Section 15.4 below and the Declaration of Alternative Dispute Resolution for The Summit on Sixth.

1.26 Deed of Trust.

Deed of Trust shall mean a Mortgage or a Deed of Trust, as the case may be.

1.27 DRE.

DRE shall mean the California Department of Real Estate and any successors thereto.

1.28 Exclusive Use Area(s).

Exclusive Use Area(s) shall mean and include those portions of the Common Property over which exclusive easements are reserved for the benefit of certain Owners as shown on the Condominium Plan or in a written instrument from the Declarant or the Association to the affected Owner. Exclusive Use Areas for this Project include the following:

(a) Exclusive Use Areas for parking purposes ("Exclusive Use Parking Space(s)") as shown on the Condominium Plan. Each Exclusive Use Parking Space shall be appurtenant to the Unit to which it is assigned. The assignment and conveyance of Exclusive Use Parking Spaces shall be determined by Declarant in its sole and absolute discretion and identified on written instruments conveying Exclusive Use Parking Spaces to Owners. Nothing herein shall limit the right, power and authority of Declarant to create, transfer and/or convey additional Exclusive Use Parking Spaces to Owners subsequent to the close of escrow for the sale of a Unit to such Owner under the authority reserved to Declarant in this Section 1.28(a) and Article VII below. An Owner may assign or lease one or more Exclusive Use Parking Spaces conveyed to such Owner, to another Owner of a Unit in the Project, subject to the prior approval of the Board and any Rules or Regulations adopted with respect thereto and, provided that such assignment or lease of Exclusive Use Parking Spaces does not violate any applicable governmental rules, restrictions and requirements, including any minimum parking space requirement. Any purported assignment or lease of an Exclusive Use Parking Space to a person or entity other than an Owner shall be null and void, and without legal force or effect. A copy of the assignment instrument shall be delivered to the Board as soon as possible after its execution.

(b) Exclusive Use Areas for internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of that Unit, in accordance with California Civil Code Section 1351(i), and any other areas designated by Declarant or shown as Exclusive Use Areas in this Declaration, the Condominium Plan, or another instrument from Declarant or the Association.

Declarant shall have the right to temporarily relocate an Owner's assigned Exclusive Use Areas in order to accommodate any construction, maintenance or repair of Improvements located within this Project. If an assigned Exclusive Use Area is permanently affected by such construction, maintenance or repair, Declarant shall have the right to exchange the affected Exclusive Use Area for another available Exclusive Use Area. Each Owner, by accepting a deed to a Condominium, hereby acknowledges that such activities of the Declarant may impair the use of such Owner's assigned Exclusive Use Areas and may constitute an inconvenience or nuisance to the Owners, and hereby consents to such impairment, inconvenience or nuisance, and agrees to indemnify the Declarant against any claims with respect to such matters.

1.29 Family.

Family shall mean one or more natural Persons each related to the other by blood, marriage or adoption, or one or more natural Persons not all so related, but who maintain a common household in a Unit.

1.30 FHLMC.

FHLMC shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporation.

1.31 Fiscal Year.

Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.32 FNMA.

FNMA shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

1.33 GNMA.

GNMA shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successor to such association.

1.34 Governmental Agency.

Governmental Agency shall mean any local, county, state and/or federal governmental or quasi-governmental agency, authority or regulatory body (including the City, Agency, and any public or private utility company including cable television) that has jurisdiction over the Project or any part thereof.

1.35 Improvements.

Improvements shall mean all structures and appurtenances thereto of every type and kind located within the Project, including, but not limited to, the following (if applicable): dwelling units, awnings, terraces, balconies, decks, patios, lobbies, walkways, hallways, stairways, elevators and elevator shafts, storage areas, trash areas, driveways, parking areas, fences, screening walls, block walls, retaining walls, bearing walls, columns, vertical supports, girders, ceiling joists, subfloors, floors, walls, roofs, slabs, foundations, paint on surfaces of any structure, heating and cooling equipment, water heaters, reservoirs, tanks, pumps, motors, ducts, flues and chutes, conduits, pipes, plumbing, sprinkler systems, irrigation systems, drainage systems, landscaping, hedges, trees, shrubs, windbreaks, poles, signs, fire protection systems, television antennas, satellite dishes, wires and other utility installations.

1.36 Maintenance Funds.

Maintenance Funds shall mean the accounts created for receipts and disbursements of the Association pursuant to Section 5.2 hereof.

1.37 Maintenance Manual.

Maintenance Manual shall mean the maintenance guidelines which may be prepared by the Declarant or its authorized agents and provided to the Association and to Owners, specifying obligations for maintenance of the Common Property by the Association and the Units by the Owners, as updated and amended from time to time. Each Owner who receives a Maintenance Manual is obligated to provide a copy of such Maintenance Manual to any successor purchaser of such Owner's Unit.

1.38 Manager.

Manager shall mean the Person, employed by the Association, pursuant to and limited by Section 2.10 hereof, and delegated the duties, power or functions of the Association as limited by said Section.

1.39 Member, Membership.

Member shall mean every Person holding a membership in the Association, pursuant to Section 2.3 hereof. Membership shall mean the property voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in the Restrictions.

1.40 Mortgage.

Mortgage shall mean any Recorded mortgage or deed of trust or other conveyance of a Condominium or other portion of the Property to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" when used shall be synonymous with the term "Mortgage."

1.41 Mortgagee, Mortgagor.

Mortgagee shall mean a Person to whom a Mortgage is made and shall include the Beneficiary of a Deed of Trust; Mortgagor shall mean a Person who mortgages his or its property to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor" and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.42 Notice and Hearing.

Notice and Hearing shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at the Owner's expense, in the manner further provided in the Bylaws.

1.43 Owner.

Owner shall mean the record owner(s), whether one or more Persons or entities, of a fee simple interest in a Condominium within the Project, including Declarant, but excluding those having such interests merely as security for the performance of an obligation with respect to each Condominium owned by Declarant. The term "Owner" shall include the seller (but not the buyer) under an executory contract of sale. The term "Owner(s)" shall generally mean the owner(s) of residential Condominiums within the Project, and shall only include the Commercial Owner when such intention is expressly stated. The term "Owner" shall not include a Mortgagee prior to its acquisition of fee title to the Unit encumbered by its Mortgage.

1.44 Person.

Person shall mean a natural individual, a corporation, a partnership, a trust, or any other entity with the legal right to hold title to real property.

1.45 Project.

Project shall mean the Property and all Improvements located therein, including, without limitation, the Common Property and the Units. The Project is a "condominium project" as defined in Section 1351(f) of the California Civil Code.

1.46 Property.

Property shall mean all of the real property located in the City of Los Angeles, County of Los Angeles, State of California, described as follows: Lots 1, 2 and 3 of Tract No. 65456 as shown on a Subdivision Map filed on March 19, 2008, in Book 1346 at Pages 27 to 35, inclusive, of Maps, in the Official Records of Los Angeles County.

1.47 Reciprocal Easement Agreement.

Reciprocal Easement Agreement shall mean that certain Declaration of Reciprocal Easements for The Summit on Sixth made by Declarant recorded against the Property, as such may be amended from time to time. The Reciprocal Easement Agreement

provides for reciprocal easements through the Condominium Building for access, drainage, utilities and other purposes as reasonably needed for proper operations of the Commercial Lots and the residential Units. The Reciprocal Easement Agreement also reserves certain commercial signage easements for the benefit of the owner of such commercial signage.

1.48 Record, File, Recordation.

Record, File or Recordation shall mean, with respect to any document, the recordation or filing of such document in the Office of the County Recorder of the county in which the Property is located.

1.49 Residence.

Residence shall mean the residential dwelling portion of a Unit, intended for use by a single Family.

1.50 Restrictions.

Restrictions shall mean this Declaration, the Reciprocal Easement Agreement, the Articles, Bylaws and the Rules and Regulations of the Association from time to time in effect.

1.51 Rules and Regulations.

Rules and Regulations shall mean the rules and regulations adopted by the Board pursuant to this Declaration or the Bylaws, as such Rules and Regulations may be amended from time to time.

1.52 Separate Interest or Unit.

Separate Interest or Unit shall mean a separate interest in space as defined in Section 1351(f) of the California Civil Code. Each Separate Interest or Unit shall be a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan, and shall consist of the airspace cube designated on the Condominium Plan, including the Residence and the Terrace, if any, and all other Improvements located within such cube. Each Separate Interest or Unit may have appurtenant thereto Exclusive Use Parking Space(s), as shown on the Condominium Plan or in a written instrument from the Declarant to the affected Owner. In interpreting deeds, declarations and plans, the existing physical boundaries of the Unit (including the Exclusive Use Areas appurtenant thereto) or a Unit or Exclusive Use Area constructed or reconstructed in substantial accordance with the Declaration, the Condominium Plan and the construction plans for the Project, if they are available, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan or Declaration, regardless of settling or lateral movement of the Condominium Building and regardless of minor variances between boundaries, as shown on the Condominium Plan or defined in the deed and Declaration, and the boundaries of a building as constructed or reconstructed.

1.53 Subdivision Map.

Subdivision Map shall mean the subdivision map for Tract No. 65456, filed on March 19, 2008, in Book 1346 at Pages 27 to 35, inclusive, of Maps, in the Official Records of Los Angeles County.

1.54 Telecommunications Facilities.

Telecommunications Facilities means equipment, cables, conduits, inner ducts, vaults, connecting hardware, wires, poles, transmitters, towers, antennae and other facilities, structures and Improvements necessary for, or used in, the provision of Telecommunications Services. Declarant may expand this definition in any supplemental declaration.

1.55 Telecommunications Services.

Telecommunications Services means services for cable television, communications, telecommunications, high-speed data, telephony, intranet, internet, broad-band communications, information transfer, transmission, video and other similar services. Declarant may expand this definition in any supplemental declaration.

1.56 Terrace(s).

Terraces shall mean those patio or balcony elements within the Project as shown and depicted on the Condominium Plan and constituting a portion of the Units located within the Project.

ARTICLE II

2. Homeowners Association.

2.1 Organization of Association.

The Association is or shall be incorporated under the name of The Summit on Sixth Homeowners Association, as a corporation not for profit under the Nonprofit Mutual Benefit Corporation Law of the State of California.

2.2 Duties and Powers.

(a) General Duties and Powers. The duties and powers of the Association are those set forth in the Declaration, the Articles and Bylaws, together with the general and implied powers of a nonprofit mutual benefit corporation, generally to do any and all things that a corporation organized under the laws of the State of California may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and in this Declaration. The Association shall further have the right to install or construct capital Improvements on the Common Property. The Association may at any time, and from time to time reconstruct, replace or refinish any Improvement or portion thereof upon the Common Property in accordance with the applicable

design, finish or standard of construction of such Improvement; and may also replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Property. The Association may employ personnel necessary for the effective operation and maintenance of the Common Property, including, without limitation, the employment of legal, management and accounting services. The Association shall also be responsible for exercising all rights and discharging all responsibilities applicable thereto under the terms of the Declaration and the Reciprocal Easement Agreement. The Association shall make available for inspection by any prospective purchaser of a Condominium, any Owner of a Condominium, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Condominium, current copies of the Declaration, the Articles, the Bylaws, the Rules and Regulations and all other books, records, and financial statements of the Association. The Association shall additionally have the power, but not the duty, to enter into contracts with Owners or other persons to provide services or to maintain and repair Improvements within the Property and elsewhere which the Association is not otherwise required to provide or maintain pursuant to this Declaration or the Reciprocal Easement Agreement; *provided however*, any such contract shall provide for the payment to the Association for the costs of providing such services or maintenance.

(b) Litigation. Subject to the provisions of this Declaration, the Association shall have the power, but not the duty, to initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Association in matters pertaining to (a) the application or enforcement of this Declaration and (b) damage to the Common Property. The Association and not the individual Members shall have the power to pursue any claims or other actions for construction defects in the Common Property pursuant to the procedures set forth in Section 15.4 below. Any recovery by the Association with respect to any damage to or defect in the Common Property shall be utilized solely for the purpose of paying for the costs of obtaining the recovery and for correcting such damage or defect.

(c) Maintenance Manuals. The Association shall maintain at the offices of the Association a copy of the Maintenance Manual provided by Declarant to the Owners, and shall make available to each such Owner upon request a copy of the Maintenance Manual applicable to the Units. The Association shall have the right to charge the requesting Owner a fee for the copying of such Maintenance Manual. The Association shall also comply with provisions of the Maintenance Manual provided by Declarant to the Association. The Board may, from time to time, make appropriate revisions to the Association's Maintenance Manual based on the Board's review thereof, to update such manual to provide for maintenance according to current industry practices so long as such changes do not reduce the useful life or functionality items being maintained.

(d) Members' Approval of Construction Defect Actions. In the event that any claim or other actions brought by the Association involving allegations of construction defects relating to the Common Property is not resolved pursuant to the repair and mediation procedures set forth in Section 15.4 below, the Association shall not initiate an action or arbitration under Section 15.4 below or otherwise without first obtaining the consent of the Owners other than Declarant, representing more than fifty percent (50%) of the Owners of the Association at a meeting or election of the Association conducted in accordance with the provisions of California Corporations Code Sections 7510, *et seq.* and 7613 and any successor statutes or laws.

(e) Adoption of Rules and Regulations. The Board or the Members of the Association by majority vote, may adopt reasonable Rules and Regulations that are not inconsistent with this Declaration relating to the use of the Association Property and all its facilities, and the conduct of Owners and their Family, tenants, guests, and invitees with respect to the Project and other Owners. The Board shall adopt and amend Rules and Regulations in accordance with the procedures and requirements set forth in California Civil Code Sections 1357.100 - 1357.150 and any amendment thereto. Written copies of such Rules and Regulations and any schedule of fines and penalties adopted by the Board shall be furnished to Owners. All changes to the Rules and Regulations shall be delivered within fifteen (15) days after they are adopted by either: (i) posting in a conspicuous place in the Association Property; or (ii) sending to the Owners via first-class mail or by any system or technology designed to record and communicate messages.

2.3 Membership.

Every Owner, upon becoming the Owner of a Condominium in the Project, shall automatically become a Member of the Association (the Commercial Owner shall not be a Member of the Association), and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. Ownership of a Condominium shall be the sole qualification for Membership in the Association. All Memberships shall be appurtenant to the Condominium conveyed, and with the exception of Declarant, a Person shall be deemed an Owner of a Condominium only upon Recordation of a deed conveying the Condominium to such Person. Except as may otherwise be expressly provided herein, the rights, duties, privileges and obligations of all Members of the Association shall be as provided in the Restrictions.

2.4 Transfer.

The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Condominium, and then only to the purchaser or Beneficiary of such Condominium. A prohibited transfer is void, and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Condominium to a contract purchaser under an agreement to purchase shall be entitled to delegate to the contract purchaser his Membership rights in the Association. The delegation shall be in writing and shall be delivered to the Board before the contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Condominium until fee title to the Condominium sold is transferred, as further provided in Section 5.1 of this Declaration. If the Owner of any Condominium fails or refuses to transfer the Membership registered in his name to the purchaser of the Condominium upon transfer of fee title thereto, then upon receipt of satisfactory evidence of such transfer the Board of Directors shall have the right to record the transfer upon the books of the Association and to allow the purchaser to vote at meetings of the Association. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a new Owner and his Condominium (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the membership

to the new Owner on the records of the Association, provided such fee does not exceed the Association's actual cost involved in changing its records of ownership.

2.5 Classes of Membership.

The Association shall have two (2) classes of voting Membership.

Class A. Class A Members shall originally be all Owners except the Declarant, for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for each Condominium owned by such Class A Member and subject to assessment. Declarant shall become a Class A Member with regard to Condominiums owned by Declarant upon conversion of Declarant's Class B Membership as provided below. When more than one (1) Person owns any Condominium, all of those Persons shall be Members. The vote of such Condominium shall be exercised as they among themselves determine in accordance with Section 2.6, but in no event shall more than one (1) Class A vote be cast for any Condominium.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Condominium owned and subject to assessment, provided that the Class B Membership shall cease and be converted to Class A Membership immediately upon the first to occur of the following events:

- (1) The sale and closing of seventy-two (72) Units in the Project; or
- (2) The second anniversary of the first Close of Escrow pursuant to the Final Subdivision Public Report for the Project.

2.6 Voting Rights.

(a) All voting rights shall be subject to the Restrictions. Except as provided in Section 14.2 of this Declaration and Section 4.9 of the Bylaws, as long as there exists a Class B Membership, any provision of this Declaration, the Articles or Bylaws which expressly requires the vote or written consent of a prescribed majority of the voting power of the Members of the Association other than Declarant for action to be taken by the Association, is not intended to preclude Declarant from casting votes attributable to Units which Declarant owns, and shall require the approval of such prescribed majority of the voting power of each class of Membership. Except as provided in Section 14.2 of this Declaration and Section 4.9 of the Bylaws, when the Class B Membership has terminated, any provision of this Declaration, the Articles or Bylaws which expressly requires the vote or written consent of a prescribed majority of the voting power of the Members of the Association other than Declarant for action to be taken by the Association, is not intended to preclude Declarant from casting votes attributable to Units which Declarant owns, and shall require the vote or written consent of Owners representing such prescribed majority of both the total voting power of the Association and the voting power of the Association residing in Owners other than Declarant.

(b) At any meeting of the Association, each Owner (except as otherwise provided in Section 2.5 with respect to the voting power of Declarant), shall be entitled to cast no more than one (1) vote for each Condominium owned as shown on the Condominium Plan. Where there is more than one (1) record Owner of a Condominium

(collectively, "Co-owners" and each a "Co-owner"), all of those Co-owners shall be Members and may attend any meeting of the Association, but only one (1) of those Co-owners shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium shall from time to time designate in writing one (1) of their number to vote. Fractional votes shall not be allowed, and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting Co-owner is designated or if the designation has been revoked, the vote for the Condominium shall be exercised as the Co-owners owning the majority interests in the Condominium mutually agree. Unless the Board receives a written objection in advance from a Co-owner, it shall be conclusively presumed that the voting Co-owner is acting with the consent of his Co-owners. No vote shall be cast for any Condominium if the Co-owners present in person or by proxy owning the majority interests in such Condominium cannot agree to said vote or other action. The nonvoting Co-owner or Co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly-owned Condominium and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws of the Association, shall be deemed to be binding on all Owners, their successors and assigns.

2.7 Repair and Maintenance by the Association.

(a) Maintenance Standards. Subject to Article X pertaining to destruction of Improvements and Article XI pertaining to eminent domain, the Association shall paint, maintain, repair and replace the Common Property and Improvements thereon, or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Property and Improvements thereon, in a clean, functional, sanitary and attractive condition, in accordance with applicable manufacturer standards and recommendations and the schedules set forth in the Maintenance Manual, and in manner consistent with projects of like quality; provided, however, except as expressly provided herein, the Association shall not be responsible for or obligated to perform those items of maintenance, repair or replacement of the Units (the maintenance of which is the responsibility of the Owner thereof as provided in Section 2.9), nor shall the Association be responsible for or obligated to perform those items of maintenance, repair or replacement of the Common Property and all Improvements thereon which are the responsibility of a governmental or quasi-governmental entity. Subject to the qualifications set forth above in this Section 2.7(a), the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Property.

(b) Maintenance Items. Without limiting the generality of the foregoing, but subject to the allocation of maintenance responsibilities in the Reciprocal Easement Agreement, the Association shall without limitation have the following maintenance rights and obligations pertaining to this Project:

(i) The Association shall be responsible for the maintenance, repair, and payment of all centrally-metered water, gas, electric and other utility services and equipment, Common Property refuse equipment and collection, and any mechanical or electrical equipment in the Common Property. The Association shall maintain and read all utility sub-meters on the Property and determine the utility costs and assessments applicable to each Unit and the Commercial Lots, if applicable;

(ii) The Association shall be responsible for payment of all Common Expenses;

(iii) The Association shall be responsible for the maintenance and repair of the hallways, walkways, sidewalks, all privately maintained driveways, and other means of ingress and egress within the Common Property, and any Improvements therein or thereon;

(iv) The Association shall maintain an adequate lighting system, in good working order within the Common Property;

(v) The Association shall be responsible for the repair and maintenance of all clustered mailboxes;

(vi) The Association shall be responsible for the maintenance of all landscaping located on the Common Property (including, without limitation, maintaining vegetation necessary to avoid erosion, controlling weed growth and providing for irrigation, within the limits of drought restrictions, if any, and providing, maintaining, and repairing sprinklers and other landscape maintenance equipment and facilities as necessary) in a fertilized, trimmed and otherwise attractive and first-class condition and in accordance with all applicable legal requirements;

(vii) The Association shall be responsible for maintenance and repair of the plumbing (excluding sink clogs, toilet clogs and garbage disposal clogs when located within Units) and drainage structures, Improvements and basins located in the Common Property, including, without limitation, any sump pump, and shall restore any surface landscaping or other Improvement damaged or destroyed in connection with the repair, replacement or removal of any plumbing or drainage structures, Improvements, or basins;

(viii) The Association shall be responsible for the maintenance, repair, and replacement of any water system, heating or cooling equipment serving the Condominium Building (excluding any heating or cooling equipment and other utilities which are located within or which exclusively serve a Unit or a Commercial Lot), elevators and elevator shafts, fire alarm monitoring system, sprinkler systems (including the interior fire sprinkler system designed to serve each Unit, if any) and any related facilities (except the outlets thereof when located within Units or the Commercial Lots);

(ix) The Association shall be responsible for the periodic maintenance of the exterior of the Condominium Building (excluding any area to be maintained by the Owners and the Commercial Owner(s)), including, without limitation, all portions of the Terrace of any Unit including the deck surfaces of such Terrace and the painting of the interior and exterior portions of the walls or railings surrounding such Terrace, and the exterior cleaning of all glass windows or other trim located on the exterior of the Condominium Building (except for the cleaning of the Unit's exterior glass window and door surfaces which are located on the Terrace, which is the responsibility of the Unit Owners);

(x) The Association shall be responsible for the maintenance (including restriping, sweeping and cleaning), repair and replacement of the parking areas

(except the parking areas in the Commercial Lots) which are Exclusive Use Parking Spaces appurtenant to Units;

(xi) The Association shall be responsible for the maintenance, repair and replacement of the wrought iron fence, including the non-motorized vehicular gate in such fence, located in the Project;

(xii) If determined by the Board to be economically feasible, the Association may, but shall not be obligated to, provide for an inspection and preventive program for the prevention and eradication of infestation by pests and organisms in the Property;

(xiii) The Association shall have the right, without obligation, to perform all corrective janitorial and repair work within any Unit if the Owner thereof fails to perform such work; and

(xiv) The Association and each Owner shall maintain a comprehensive maintenance log which details all maintenance actions and compliance with the maintenance provisions set forth in this Declaration.

(c) Pest Eradication. If the Board adopts an inspection and preventive program for the prevention and eradication of infestation by termites, insects, pests, and other organisms, the Association, upon reasonable notice (which shall be given no less than fifteen (15) days nor more than thirty (30) days before the date of temporary relocation) to each Owner and the occupants of his Unit, may require such Owner and occupants to temporarily relocate from such Unit in order to accommodate efforts by the Association to eradicate such infestation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Each Owner, by accepting a deed to a Condominium, hereby acknowledges that such activities of the Association may temporarily impair the use of such Owner's Unit and may constitute an inconvenience or nuisance to the Owners and its occupants, hereby consents to such impairment, inconvenience or nuisance, and agrees to indemnify the Association against any claims with respect to such matters. Any damage caused to a Unit by such entry by the Board or by any person authorized by the Board shall be repaired by the Board as a Common Expense of the Association. All costs involved in maintaining the inspection and preventive program as well as repairing and replacing the Common Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of termites, insects, pests or other organisms shall be a Common Expense subject to the restrictions applicable to Capital Improvement Assessments.

(d) Charges to Owners. All such costs of maintenance, repairs and replacements for the Property shall be paid for as Common Expenses out of the Association Maintenance Funds as provided in this Declaration and/or the Reciprocal Easement Agreement. It shall be the affirmative duty of the Board of Directors to require strict compliance with all provisions of this Declaration and to cause the Property to be inspected by the Architectural Committee for any violation thereof. The cost of any maintenance, repairs or replacements by the Association which arises out of, or is caused by, the act of an Owner or such Owner's

Family, tenants, guests, invitees, or agents in violation of the Restrictions shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner.

2.8 Unsegregated Real Property Taxes.

To the extent not assessed to or paid by the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Property. In addition, if all of the Units in the Project are taxed under a blanket tax bill covering all of the Project, each Owner shall pay his proportionate share of any installment due under the blanket tax bill to the Association at least ten (10) days prior to the delinquency date; and the Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date. Blanket taxes shall be allocated among the Owners and their Condominiums based upon the prorated square footage of each Unit. The Association shall, at least forty-five (45) days prior to the delinquency date of any blanket tax installment, deliver to each Owner in the Project a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay his proportionate share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay his proportionate share. The Association shall add to the Annual Assessment of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the blanket tax bill for the Project, which late charge results from the failure of the delinquent Owner to make timely payment of his proportionate share of the taxes. Until the Close of Escrow for the sale of ninety percent (90%) of the Condominiums in the Project, the foregoing provisions relating to the collection of taxes in connection with a blanket tax bill on all or any portion of the Project may not be amended without the express written consent of Declarant.

2.9 Repair and Maintenance by Owners.

Each Owner shall maintain, repair, replace, paint, paper, plaster, tile, finish and restore or cause to be so maintained, repaired, replaced and restored, at his sole expense, all interior portions of his Unit, including, but not limited to, all glass surfaces (excluding any exterior cleaning which is the responsibility of the Association), windows (including window frames, casings, locks, handles, latches, and caulking of windows), shutters, screens, all doors, doorways, door frames (except for periodic painting or staining of the exterior surface of any entry doors or door frames of the Unit), hardware that are part of the entry system of the Unit, weather stripping, light bulbs and fixtures actuated from switches controlled from or separately metered to such Owner's Unit, electrical switches and outlets, built-in cabinets, built-in appliances (including, without limitation, dishwashers, disposals, electric and/or gas ranges, ovens, and microwave units), interior plumbing fixtures including bathtubs, shower stalls, toilets and sinks and related fixtures, the firebox of the fireplace (if any), interior fire sprinkler system (if any) designed to serve such Owner's Unit, interior surfaces of the walls, ceilings, floors and doors, and any other permanent fixtures within his Unit, in a properly functional, clean, sanitary and attractive condition, in accordance with the Condominium Plan, the construction design of the Improvements in the Project, and all applicable manufacturer standards, guidelines and recommendations, and all applicable governmental rules, restrictions and requirements; provided, that, notwithstanding anything herein to the contrary, the Association shall be

responsible for the periodic maintenance and painting of the exterior of all portions of the Condominium Building, including, without limitation, the exterior of all doors providing entrance to or from any Unit and the exterior of all windows or other trim located on the exterior of the Condominium Building. No bearing walls, ceilings, floors or other structural or utility bearing portions of the Condominium Building shall be pierced or otherwise altered or repaired by the Owner, without the prior written approval of the plans for the alteration or repair by the Architectural Committee. It shall be the further responsibility of each Owner, at his sole expense, to clean the Terrace of his Unit, including cleaning all exterior glass window and door surfaces which are located on such Terrace, and to clear all leaves, mud, and other debris from all gutters or other drainage devices servicing such Terrace.

Notwithstanding any other provision herein, each Owner shall also be responsible for all maintenance and repair of any internal or external telephone wiring wherever located which is designed to serve only his Unit, and shall be entitled to reasonable access over the Common Property for such purposes, subject to reasonable limitations imposed by the Association. Such area shall constitute an Exclusive Use Area of the benefitted Owner in accordance with Section 1.28 above. It shall further be the duty of each Owner to pay when due all charges for any utility service which is separately metered to his Unit.

Subject to any required approval of the Architectural Committee and the provisions of Section 2.7 hereof concerning the Association's maintenance of any heating or cooling equipment, each Owner shall be responsible for maintaining those portions of any heating or cooling equipment (including any filters and other appurtenance thereto) and other utilities or fixtures which are located within or which exclusively serve his Unit in accordance with manufacturers' specifications and instructions concerning care and maintenance of such equipment.

If the Board does not adopt an inspection and preventive program with regard to any pests and other organisms pursuant to Section 2.7 herein, such a program shall be the responsibility of each Owner.

If any Owner shall permit any Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate this Declaration, the Reciprocal Easement Agreement, or any applicable governmental rules, restrictions, or requirements, the Board shall have the right to seek any remedies at law or in equity which it may have. In addition, the Board shall have the right, but not the duty, after Notice and Hearing as provided in the Bylaws, to enter upon such Owner's Unit to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Special Assessment enforceable as set forth in this Declaration.

No Owner may alter or modify any common in wall plumbing within the Project and shall not do anything to impact the cross connection of any common water line.

No Owner shall interfere with the exercise by the Association of its right to maintain the Association Property or to perform any of its obligations pertaining to this Project. The Declarant hereby grants to the Association such access across the Common Property and the Units as is necessary to allow maintenance of the Association Property.

2.10 Use of Agent.

The Board of Directors, on behalf of the Association, may contract with a Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The maximum term of any such contract ("Management Contract") shall be one (1) year, unless a longer term is (i) contained in a management contract, the terms of which have been approved by the DRE, or (ii) approved either by vote or written assent of a majority of the voting power of the Association residing in Members other than Declarant, in which case the maximum term of the Management Contract shall be three (3) years. Each such Management Contract approved by the Members pursuant to clause (ii) above, shall provide for its termination after one (1) year by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days' written notice to the other party.

ARTICLE III

3. Rights in Common Property.

3.1 Association Easement.

The Association shall have an easement over the Property for performing its duties and exercising its powers described in this Declaration. The Association's obligations to maintain the Common Property in the Project shall commence on the date Annual Assessments commence on the Condominiums in the Project. Until commencement of Annual Assessments on the Condominiums in the Project, the Common Property in the Project shall be maintained by Declarant.

3.2 Partition.

Except as provided in this Declaration, there shall be no judicial partition of the Common Property, or any part thereof, for the term of the Project, nor shall Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Project seek any such judicial partition.

3.3 Members' Easements in Common Property.

Subject to the provisions of this Declaration, and subject to the terms of the Reciprocal Easement Agreement and for the purposes set forth herein, and subject to the terms of the Association, every Member of the Association shall have, for himself, his Family, his tenants, guests, and invitees, a nonexclusive easement of access, ingress, egress, use and enjoyment of, in and to the Common Property, and such easements shall be appurtenant to and shall pass with title to every Condominium in the Project.

3.4 Extent of Members' Easements.

The rights and easements of use and enjoyment of the Common Property created for the Members by this Declaration shall be subject to the Restrictions, which include, without limitation, the following:

(a) The right of the Board to suspend the rights and easements of any Member, and the Persons deriving such rights and easements from any Member, for use and enjoyment of the recreation facilities within the Project, for any period during which the payment of any Annual, Special, Capital Improvement or Reconstruction Assessment against the Member and his Condominium remains delinquent, and, after Notice and Hearing as provided in the Bylaws, to suspend such rights and easements for the period set forth in the Bylaws for any violation of the Restrictions, it being understood that any suspension of use and enjoyment of the recreation facilities within the Project for either nonpayment of any Assessment or breach of the Restrictions shall not constitute a waiver or discharge of the Member's obligation to pay assessments as provided in this Declaration, nor shall it in any way impinge on any Member's right of access to or use of such Member's Unit;

(b) The right of the Association to consent to or otherwise cause the construction of additional Improvements on the Common Property and to consent to or otherwise cause the alteration or removal of any existing Improvements on the Common Property for the benefit of the Members of the Association;

(c) The right of the Association, acting through the Board, to grant, consent to or join in the grant or conveyance of easements, licenses or rights-of-way in, on or over the Common Property for purposes not inconsistent with the intended use of the Property as a Condominium project, including, without limitation, the granting of exclusive easements to Owners over portions of the Common Property to conform the boundaries of the Units and/or the Association Property to the as-built location of Improvements installed or constructed by Declarant;

(d) The rights and reservations of Declarant as set forth in this Declaration;

(e) The right of the Association, acting through the Board, to reasonably restrict access to roofs, maintenance and landscaped areas and similar areas of the Property;

(f) The right of the Association to reasonably limit the number of guests and tenants of the Owners using the Common Property;

(g) The right of the Association, acting through the Board, to establish uniform Rules and Regulations for the use of the Common Property;

(h) The right of the Association in accordance with the Articles, Bylaws and this Declaration, with a vote or written assent of at least two-thirds (2/3rds) of the voting power of the Association, to borrow money for the purpose of improving, repairing, or adding to the Common Property, and in aid thereof, subject to the provisions of Article XII of this Declaration, to mortgage, pledge, encumber by deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;

(i) The right of the Association, subject to the provisions of Article XII of this Declaration, to dedicate, release, alienate, or transfer the Common Property, or a

portion thereof, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; and

(j) The right of the Association, subject to the provisions of California Civil Code Section 1363.07 (or any successor or replacement statute), to grant exclusive use of any portion of the Association Property to any Owner, except as specified therein.

3.5 Delegation of Use.

Any Member entitled to the right and easement of use and enjoyment of the Common Property may delegate his right to use and enjoyment of the recreation and common facilities to his tenants, contract purchasers or subtenants who reside in his Condominium, subject to reasonable regulation by the Board. A Member who has made such a delegation of rights shall not be entitled to use and enjoyment of the recreation and common facilities of the Property for so long as such delegation remains in effect.

3.6 Waiver of Use.

No Member may exempt himself from personal liability for Assessments duly levied by the Association, or effect the release of his Condominium from the liens and charges thereof, by waiving use and enjoyment of the Common Property or by abandoning his Condominium.

3.7 Damage by Member.

Each Member shall be liable to the Association for any damage to the Common Property not fully reimbursed to the Association by insurance (including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by the Member, his Family, guests, tenants or invitees, or any other Persons deriving their right and easement of use and enjoyment of the Common Property from the Member, or his or their respective Family, guests, and invitees, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right, after Notice and Hearing as provided in the Bylaws, to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the Person for whom the Member may be liable as described above. In the case of joint ownership of a Condominium, the liability of the owners shall be joint and several, except to the extent that the Association shall have previously contracted in writing with the joint owners to the contrary. After Notice and Hearing as provided in the Bylaws, the cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against such Member's Condominium, and may be enforced as provided herein.

ARTICLE IV

4. Architectural Review Committee.

4.1 Members of Committee.

The Architectural Review Committee, sometimes referred to in this Declaration as the "Architectural Committee" or the "Committee," shall consist of three (3) members. The initial members of the Committee shall consist of representatives of Declarant. Subject to the following provisions, Declarant shall have the right and power at all times to appoint or remove a majority of the members of the Architectural Committee or to fill any vacancy of such majority until either (i) Close of Escrow has occurred for the sale of ninety percent (90%) of all the Units in the overall development, or (ii) the fifth anniversary of the first Close of Escrow pursuant to the Final Subdivision Public Report for the Project, whichever occurs earlier. Commencing one (1) year from the issuance of the Final Subdivision Public Report for the Project, the Board shall have the power to appoint and remove one (1) member of the Architectural Committee. Following termination of Declarant's right to appoint all or a portion of the members of the Committee pursuant to this Section 4.1, the Board shall have the power to appoint and remove all of the members of the Architectural Committee. Board members may also serve as Committee members.

4.2 Review of Plans and Specifications.

The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. No construction, alteration, removal, relocation, repainting, demolition, addition, modification, decoration, redecoration or reconstruction of any Improvement (including, without limitation, any bearing wall, ceiling, floor, window covering, plumbing, water system, and any landscaping or alteration of any established drainage pattern, plan or grade on any portion of the Property) which is a structural or utility component of the Condominium Building or is visible from the Common Property, another Unit in the Property or a public vantage, or otherwise expressly required by this Declaration to be submitted to the Architectural Committee for its review, shall be commenced or maintained, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Committee and approved in writing by the Committee; provided, however, that any Improvement may be repainted without Committee approval, so long as the Improvement is repainted the identical color with which it was last painted in compliance with all applicable Restrictions.

The Owner submitting the plans ("Applicant") shall obtain a written, dated receipt for the plans and specifications from an authorized agent of the Committee and shall submit one set of the plans and specifications by registered or certified mail, postage prepaid, return receipt requested, addressed to the principal office of the Association, or such other address as may be established from time to time by the Board. Until changed by the Board, the address for the submission of such plans and specifications shall be the principal office of the Association. The Committee shall approve, in writing only, proposals or plans and specifications submitted for its

approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Property or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof will not become a burden on the Association.

The Committee may condition its written approval of proposals or plans and specifications for any Improvement (1) upon the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Property as a result of such work, (2) on such changes therein as it deems appropriate, (3) upon the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (4) upon the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (5) upon the Applicant's agreement to reimburse the Association for the cost of maintenance, (6) upon the Applicant's agreement to complete the proposed work within a stated period of time, or (7) upon all of the above, and may require submission of additional plans and specifications addressing any areas of concern to the Committee or other information prior to approving or disapproving material submitted.

The Committee may from time to time adopt, promulgate and amend rules or guidelines which, among other matters, may set forth design and architectural standards, procedures for the submission of plans for approval, requirements for a fee to accompany each application for approval, and/or additional factors which it will take into consideration in reviewing submissions. The Committee may provide that the amount of the fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plan submitted for approval. To ensure uniformity throughout the Project, the Association has the right to review and approve proposed design guidelines and all changes to the design guidelines before they are effective.

Decisions of the Committee and the reasons for the decisions shall be transmitted by the Committee to the Applicant in writing at the address set forth in the application for approval, within sixty (60) days after receipt by the Committee of all materials required by the Committee. No purported oral or verbal approval of the Committee shall be permitted and any approval, to be binding upon the Committee and the Association, shall be in writing. In no event will any application for approval or any proposal, plans or specifications be deemed approved based upon the passage or lapse of time; any approval must be by affirmative written action of the Committee to be effective. Notwithstanding approval of any application, proposal, plans or specifications by the Committee, no Applicant shall undertake any construction or other activity subject to the review of the Committee unless, as a separate or independent matter, that Applicant has also met any review or permit requirements of the city or county in which the

Property is located and has obtained all permits necessary to legally permit such construction or other activity, and has provided proof of contractor's insurance for all work to the Association.

4.3 Condition of Approval.

As a condition to approval of any requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall be deemed to have agreed to assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the Board of Directors. It is the responsibility of every Owner of a Unit to determine for himself or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the Board or the Committee, an Owner may be required to confirm and acknowledge such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

4.4 Commencement of Construction.

All architectural changes, modifications and improvements approved by the Committee hereunder must be commenced within one (1) year from the date of approval. If not commenced within one (1) year from the date of such approval, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work prior to the expiration of said one (1) year period. All work approved by the Committee hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the Committee. All approved architectural changes, modifications and improvements must be completed in their entirety, and an Owner may not construct only a portion or part of an approved architectural change, modification, or improvement.

4.5 Meetings of the Committee.

The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 4.10. In the absence of such designation, the vote of a majority of the Committee confirmed by contemporaneous written record executed by one or more members of the Committee or the written consent of a majority of the Committee taken without a meeting, shall constitute an act of the Committee.

4.6 No Waiver of Future Approvals.

The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed in connection with any matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans and specifications, drawings or matter subsequently or additionally submitted for approval or consent. Each Owner acknowledges that the members of the Board of Directors and the Committee will change from

time to time and that interpretation, application, and enforcement of the architectural standards may vary accordingly.

4.7 Compensation of Members.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

4.8 Correction of Defects.

Inspection of work and correction of defects therein shall proceed as follows:

(a) The Committee or its duly authorized representative may at any time inspect any Improvement for which approval of plans is required under this Article IV. However, the Committee's right of inspection of Improvements for which plans have been submitted and approved shall terminate one hundred twenty (120) days after the work of Improvement has been completed and the respective Owner has given written notice of its completion to the Committee. The notice of completion shall be delivered by registered or certified mail, postage prepaid, return receipt requested, addressed to the principal office of the Association, or such other address as may be established from time to time by the Board. The Committee's rights of inspection shall not terminate pursuant to this paragraph if plans for the work of Improvement have not previously been submitted to and approved by the Committee or if the notice of completion is not properly given. If, as a result of such inspection, the Committee finds that the Improvement was done without obtaining approval of the plans therefor or was not done in substantial compliance with the plans approved by the Committee, it shall notify the Owner in writing of failure to comply with this Article IV, specifying the particulars of noncompliance. The Committee shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(b) If upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy the noncompliance, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, as provided in the Bylaws, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a Notice of Noncompliance and may peacefully remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses (including reasonable attorneys' fees) incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against the Owner for reimbursement as provided in this Declaration. The right of the Association to remove a noncomplying Improvement or otherwise remedy the noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity or in this Declaration.

(c) If for any reason the Committee fails to notify the Owner of any noncompliance with previously submitted and approved plans within one hundred fifty (150) days after receipt of written notice of completion from the Owner delivered in the manner required above, the Improvement shall be deemed to be in accordance with the approved plans.

4.9 Scope of Review.

The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, on the basis of potential impact on the Condominium Building (including, structural, acoustic and utility impacts), aesthetic considerations, consistency with this Declaration, and the overall benefit or detriment which would result to the immediate vicinity and the Property generally. The Committee shall take into consideration the structural and aesthetic aspects of the architectural design, placement of Improvements, landscaping, color schemes, exterior finishes and materials and similar features. The Committee's approval or disapproval shall be based solely on the considerations set forth in this Article IV, and the Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. The Architectural Committee may consider the impact of views from other Residences or Condominiums, Association Property, or public vantages and reasonable privacy interests as factors in reviewing, approving or disapproving any proposed construction or other Improvements. However, there is no guaranty of any protected views within the Property and no Residence or Condominium is guaranteed the existence or unobstructed continuation of any particular view. Each Owner acknowledges that the Board of Directors and the Committee may adopt different architectural standards for different parts of the Project, based upon street visibility and location of the proposed modification in the Condominium Building. Neither the Declarant, the Association, the Board of Directors, the Committee, the Committee Representative, nor any member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner, quality or effect of approved construction on or modification to any Unit or Exclusive Use Areas appurtenant to a Unit authorized pursuant to this Article IV. In the event legal action is brought against any such party as a result of such construction or modification, the Owner causing such construction or modification shall indemnify and hold harmless the Declarant, the Association, the Board of Directors, the Committee, the Committee Representative, and all members of any of the foregoing from all costs, expenses and damages (including but not limited to attorneys' fees) incurred in connection with such action, including, without limitation, any defense thereof.

4.10 Variances.

The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least a majority of the members of the Committee, and shall become effective upon Recordation. After Declarant has lost the right to appoint a majority of the members of the Committee, the Board must approve any variance recommended by the Committee before any such variance shall become effective. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this

Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of his Unit.

4.11 Appeals.

If the Committee disapproves an application, the Applicant may appeal such decision to the Board of Directors. The Board shall adopt policies and procedures for the appeal of Committee decisions for reconsideration by the Board, which appeal shall be heard at a Board meeting which is open to the Members of the Association.

ARTICLE V

5. Association Maintenance Funds and Assessments.

5.1 Personal Obligation of Assessments.

Declarant, for each Condominium owned by it, hereby covenants and agrees to pay, and each Owner, by acceptance of a deed of a Condominium, whether or not it shall be so expressed in any such deed, is deemed to covenant and agree to pay to the Association all Annual Assessments for Common Expenses and all applicable Special Assessments, Reconstruction Assessments and Capital Improvement Assessments, including any portion thereof attributable to assessments levied under the Reciprocal Easement Agreement. The Association shall not levy or collect any Annual Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment that exceeds the amount necessary for the purpose for which it is levied. Except as provided in this Section 5.1, all such assessments, together with interest, costs, and reasonable attorneys' fees, shall be a separate, distinct and personal obligation of the Person who was the Owner of the Condominium at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of the Condominium or by an offer to waive use of the Common Property. The personal obligation for delinquent assessments shall not pass to any new Owner ("Purchaser") unless expressly assumed by the Purchaser. Except as expressly stated otherwise herein, the provisions of this Article V shall not apply to the Commercial Lots and the Commercial Lots shall only be subject to the assessment and collection provisions set forth in the Reciprocal Easement Agreement.

5.2 Maintenance Funds of Association.

The Board of Directors shall establish no fewer than two (2) separate accounts (the "Maintenance Funds"), into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under this Declaration. The Maintenance Funds may be established as trust accounts at a banking or savings institution. The Maintenance Funds shall include: (1) an Operating Fund for current Common Expenses of the Association ("Operating Fund"), (2) a Reserve Fund for capital Improvements, replacements, painting and repairs of the Common Property (which cannot normally be expected to occur on an annual or more frequent basis) ("Reserve Fund"), and (3) any other funds which the Board of Directors may establish to the

extent necessary under the provisions of this Declaration. Nothing contained herein shall limit, preclude or impair the establishment of additional Maintenance Funds by the Association, so long as the amounts assessed to, deposited into, and disbursed from any such Fund are earmarked for specified purposes authorized by this Declaration.

5.3 Purpose of Assessments.

The assessments levied by the Board of Directors on behalf of the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Condominiums, for the operation, replacement, improvement and maintenance of the Property, and to discharge any other obligations of the Association under this Declaration. All amounts deposited into the Maintenance Funds must be used solely for the common benefit of all of the Owners for purposes authorized by this Declaration. Disbursements from the Operating Fund shall be made by the Board of Directors for such purposes as may be necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used.

Disbursements from the Reserve Fund shall not be made by the Board of Directors for any purpose other than the repair, restoration, replacement or maintenance of, or litigation involving the repair, restoration, replacement or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the Reserve Fund was established. However, the Board may authorize the temporary transfer of money from the Reserve Fund to the Association's Operating Fund to meet short-term cash-flow requirements or other expenses, provided, that the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the Reserve Fund. The transferred funds shall be restored to the Reserve Fund within one (1) year of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Association, temporarily delay the restoration until the time which the Board reasonably determines to be necessary. The Board shall exercise prudent fiscal management in maintaining the integrity of the Reserve Fund, and shall, if necessary, levy a Capital Improvement Assessment or a Reconstruction Assessment, as applicable, to recover the full amount of the expended funds within the time limits required by this Section. Such assessment shall be subject to the limitation imposed by California Civil Code Section 1366. The Board may, at its discretion, extend the date that payment of the Capital Improvement Assessment or Reconstruction Assessment is due.

Nothing in this Declaration shall be construed in such a way as to permit the use of Association assessments or funds to abate any annoyance or nuisance emanating from outside the boundaries of the Property. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws. When the decision is made to use the Reserve Fund or to temporarily transfer money from the Reserve Fund to pay for litigation, the Board shall notify Members of that decision in the next available mailing to all members pursuant to Section 5016 of the California Corporations Code, and of the availability of an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by the Members at the Association's office.

5.4 Allocation of Assessments.

The Annual Assessments levied by the Board shall be allocated among the Owners as follows:

(a) Residential Square Footage Allocation. The Annual Assessments for the operating costs incurred by the Association for insurance, gas, water, refuse disposal and the Annual Assessments allocable to the Reserve Fund for purposes of exterior paint, exterior caulking, roof, and water heater shall be allocated among the Owners in accordance with the relation of the approximate square footage of each Owner's Unit to the approximate square footage of all Units (as such proportions are set forth in the Budget).

(b) Residential Per-Unit Allocation. All other Annual Assessments shall be shared equally by the Owners.

(c) Commercial Lots' Allocation. The Commercial Lots are only obligated to pay assessments to the Association pursuant to the requirements set forth in the Reciprocal Easement Agreement and the joint budget for the residential Units and the Commercial Lots.

5.5 Limitations on Annual and Special Assessment Increases.

The Board shall levy Annual Assessments in accordance with the following provisions:

(a) Maximum Authorized Annual Assessment for Initial Year of Operations. Until the first day of the Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence, the Board shall not levy an Annual Assessment per Condominium in an amount greater than one hundred twenty percent (120%) of the amount of Annual Assessments disclosed in the most current Budget filed with and approved by DRE at the time Annual Assessments commence without the vote of Members casting a majority of votes at a meeting or election of the Association at which a quorum of the Association is represented; provided, that, for purposes of this Section 5.5(a), a quorum shall mean more than fifty percent (50%) of the Members of the Association. Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.5(e).

(b) Maximum Authorized Annual Assessment for Subsequent Fiscal Years. Starting with the first Fiscal Year immediately following the Fiscal Year in which Annual Assessments commence and for each Fiscal Year thereafter, the Board shall not levy Annual Assessments in any Fiscal Year in excess of one hundred twenty percent (120%) of the Annual Assessments levied during the immediately preceding Fiscal Year without the vote of Members casting a majority of votes at a meeting or election of the Association at which a quorum of the Association is represented; provided that, for purposes of this Section 5.5(b), a quorum shall mean more than fifty percent (50%) of the Members of the Association. In addition, the Board shall provide notice by first-class mail to all Members of any increase in Annual Assessments from the Annual Assessments levied during the immediately preceding Fiscal Year not less than thirty (30) nor more than sixty (60) days prior to the date on which such

increased assessment shall become due. Notwithstanding the foregoing, this Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.5(e).

(c) Supplemental Annual Assessments. If the Board, by majority vote, determines that the important and essential functions of the Association may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total Annual Assessment charges for the current year is or will become inadequate to meet all projected expenses for the Property for any reason, it shall immediately determine the approximate amount of the inadequacy. Subject to the limitations described in Sections 5.5(a) and (b) above, the Board shall have the authority to levy, at any time during the Fiscal Year by a majority vote, a supplemental Annual Assessment reflecting a revision of the total Annual Assessment charges to be assessed against each Condominium for the balance of that Fiscal Year.

(d) Special Assessment. The Board shall not levy Special Assessments to defray the cost of any action or undertaking on behalf of the Association that in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year without the vote of Members casting a majority of votes at a meeting or election of the Association at which a quorum of the Association is represented; provided that, for purposes of this Section 5.5(d), a quorum shall mean more than fifty percent (50%) of the Members of the Association. In addition, the Board shall provide notice by first-class mail to all Members of any Special Assessment levied during the Fiscal Year not less than thirty (30) nor more than sixty (60) days prior to the date on which such Special Assessment shall become due. Notwithstanding the foregoing, this Section 5.5(d) does not limit assessment increases necessary for addressing an "Emergency Situation" as defined in Section 5.5(e).

(e) Emergency Situations. For purposes of Sections 5.5(a), 5.5(b) and 5.7, an "Emergency Situation" is any one of the following:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair or maintain the Property or any portion thereof for which the Association is responsible where a threat to personal safety on the Property is discovered;
- (iii) An extraordinary expense necessary to repair or maintain the Property or any portion thereof for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Prior to the imposition or collection of an assessment pursuant to this subparagraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the Notice of Assessment; or

(iv) An extraordinary expense in making the first payment of the earthquake insurance surcharge pursuant to Section 5003 of the California Insurance Code, if such an expense is applicable.

5.6 Annual Assessments/Commencement-Collection.

The Board of Directors shall authorize and levy the amount of the Annual Assessment upon each Condominium within the Project, as provided herein, by majority vote of the Board. The initial Annual Assessment shall begin on all Condominiums in the Project (including unsold Condominiums therein owned by Declarant) on the first day of the first calendar month following the first Close of Escrow for the sale of a Condominium in the Project. Unless provided to the contrary in the Budget, all Annual Assessments shall be assessed against the Members and their Condominiums as set forth in Sections 5.4 and 5.5 above. With the written approval of the Declarant or the Architectural Committee, the Owner of contiguous Units may be permitted to combine one or more Units into a single living space by elimination of the demising walls otherwise separating those Units, provided, that such physical combination of any Units shall not alter the legal identity of the Units under this Declaration or alter in any way the amount of the assessments applicable to those Units under this Declaration which shall continue to be allocated in full to each of the original Units notwithstanding the physical combination thereof. Annual Assessments for fractions of any month involved shall be prorated. Subject to the terms of any maintenance agreement entered into between Declarant and the Association, Declarant shall pay its full pro rata share of the Annual Assessments on all unsold Condominiums for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. From time to time the Board may determine that all excess funds in the Operating Fund be retained by the Association and used to reduce the following year's Annual Assessments. Upon dissolution of the Association incident to the abandonment or termination of the Property, any amounts remaining in any of the Maintenance Funds shall be distributed to or for the benefit of the Members in the same proportions as such monies were collected from the Members.

Concurrently with the first Close of Escrow for the sale of a Condominium in the Project, Declarant shall pay to the Association an appropriate amount (as determined by DRE) for reserves for replacement or deferred maintenance of the Common Property in the Project necessitated by or arising out of the use and occupancy of the Condominiums in the Project under a rental program conducted by Declarant if such rental program was in effect for at least one (1) year prior to such first Close of Escrow.

Declarant and any other Owner of a Unit which has not been constructed shall be exempt from payment of that portion of the Annual Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the Unit. Any such exemption from the payment of Annual Assessments shall be in effect only until the earlier to occur of (1) the Recordation of a notice of completion of the Condominium Building, (2) the occupation or use of the Unit, or (3) completion of all elements of the Condominium Improvements that the Association is obligated to maintain.

Notwithstanding any other provisions of this Declaration, conveyance of a Unit which is being used by Declarant for model home, sales office, design center, construction office or similar purposes (any of which uses are referred to in this Section 5.6 as "Model Unit") shall not commence the Annual Assessment against such Unit or other Units until discontinuance of use of such Units as a Model Unit or conveyance of any non-Model Unit to a retail purchaser, whichever occurs first. During the period of time commencing on the first day of the month after conveyance of a Unit being used by Declarant as a Model Home and ending on the date Annual Assessments commence against such Unit, Declarant shall be solely responsible to maintain all portions of the Project in which a Unit is being used as a Model Home.

Notwithstanding any other provisions of this Declaration, until the earlier to occur of (1) the Recordation of a notice of completion of an Improvement on the Common Property, or (2) the placement of such Improvement into use, each Owner (including Declarant) shall be exempt from paying that portion of any Annual Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of such Improvement.

Each Member shall pay to the Association his Annual Assessment in installments at such frequency and in such amounts as established by the Board. Each installment of the Annual Assessment may be paid by the Member to the Association in one check or in separate checks as payments attributable to the deposits under the Operating Fund and the Reserve Fund. If any installment of an Annual Assessment payment is less than the amount assessed and the payment does not specify the Maintenance Fund or Funds into which it should be deposited, the receipt by the Association from that Owner shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

Notwithstanding any other provisions of this Declaration or the Bylaws regarding the term and termination of contracts with Declarant for providing services to the Association, Declarant may enter into a written maintenance agreement with the Association under which Declarant shall pay all or any portion of the operating Common Expenses and perform all or any portion of the Association's maintenance responsibilities in exchange for a temporary suspension of Annual Assessments. Such maintenance agreement shall extend for a term and shall be on such conditions as are approved by the DRE, and may require Owners to reimburse Declarant, through the Association, for a portion of the costs expended in satisfaction of Common Expenses.

5.7 Capital Improvement Assessments.

Should the Board of Directors determine the need for a capital Improvement or other such addition to the Property, the cost of which in the aggregate exceeds five percent (5%) of the Budgeted gross expenses of the Association for the then current Fiscal Year, then the vote or written consent of Members casting a majority of votes at a meeting or election of the Association at which a quorum of the Association is represented shall be required to approve and render effective a Capital Improvement Assessment levied by the Board of Directors to cover the cost of such expenditure; provided that, for purposes of this Section 5.7, a quorum shall mean more than fifty percent (50%) of the Members of the Association. Capital Improvement

Assessments may be levied by the Board without the consent of the Members, if the aggregate of such expenditures in each Fiscal Year does not exceed five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year; provided, that the Board shall provide notice to each Owner by first-class mail of the levying of such Capital Improvement Assessment not less than thirty (30) nor more than sixty (60) days prior to the date on which such assessment shall become due. Notwithstanding the foregoing, the Board may levy in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year which exceeds five percent (5%) of the Budgeted gross expenses of the Association for such Fiscal Year if such increase is necessary to address an Emergency Situation as defined in Section 5.5(e).

5.8 Delinquency.

Any installment of an assessment provided for in this Declaration shall become delinquent if not paid within fifteen (15) days of the due date as established by the Board of Directors of the Association. With respect to any such delinquent assessment, the Board is hereby authorized to and, at its election, may require the Owner responsible for such delinquent assessment to pay both of the following: (a) reasonable costs incurred in collecting the delinquent assessment, including reasonable attorneys' fees and costs; and (b) a late charge in the maximum amount permitted by California Civil Code Section 1366(e)(2) (or any successor or replacement statute). In addition to the foregoing, commencing thirty (30) days after the assessment becomes due and continuing until paid, the Board is hereby authorized to and, at its election, may require the Owner responsible for the delinquent assessment to pay interest on all sums identified above (including the delinquent assessment, reasonable costs of collection, attorneys' fees and late charges) at the maximum rate permitted by California Civil Code Section 1366(e)(3) (or any successor or replacement statute). The Association need not accept any tender of a partial payment of an installment of an assessment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payment thereafter of all such amounts owed. Collection of delinquent assessments must be conducted in accordance with the provisions of California Civil Code Section 1367.1 (or any successor or replacement statute).

5.9 Creation and Release of Lien.

All sums (other than Special Assessments imposed against a particular Owner as a penalty or disciplinary measure for such Owner's failure to comply with the Restrictions) assessed in accordance with the provisions of this Declaration shall constitute a lien on the respective Condominium prior and superior to (a) any declaration of homestead Recorded after the Recordation of this Declaration, and (b) all other liens, except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage or Deed of Trust with first priority or seniority over all other Mortgages or Deeds of Trust) made in good faith and for value and Recorded prior to the date on which the "Notice of Lien" (described in this Section) against the respective Condominium was Recorded. Prior to the Recordation of a Notice of Lien against a Unit, the Association must comply with the requirements of California Civil Code Section 1367.1 (or any successor or replacement statute), including, without limitation, the following requirements:

At least 30 days prior to recording a Notice of Lien, the Association shall (i) notify the Owner of such Unit in writing by certified mail of the fee and penalty procedures of the Association, (ii) include a statement that the Owner has the right to inspect the Association records, pursuant to Section 8333 of the California Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION;" (iii) provide an itemized statement of the charges owed by such Owner, including items which indicate the principal owed, the fees and reasonable cost of collection, any late charges, any interests, and any reasonable attorneys' fees, (iv) notify the Owner that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association; (v) notify the Owner of the right to request a meeting with the Board as provided by California Civil Code Section 11367.1(c)(3); (vi) notify the Owner of the Owner's right, at such Owner's discretion, to dispute such charges by participating in a dispute resolution pursuant to a meet and confer program as set forth in California Civil Code Sections 1363.810 - 1363.850; (vii) notify the Owner of the Owner's right, at such Owner's discretion, to request for alternative dispute resolution with a neutral third party pursuant to California Civil Code Sections 1369.510 - 1369.590 before the Association may initiate any foreclosure proceeding against the Owner's Unit, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

Any payment toward the charges itemized shall be first applied to the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses. The decision to record a Notice of Lien shall be made by the Board in an open meeting and shall not be delegated to any agent of the Association. Prior to recordation of any Notice of Lien against an Owner's Unit, the Association shall offer such Owner, and if so requested by such Owner, participate in dispute resolution pursuant to a "meet and confer" program as set forth in California Civil Code Sections 1363.810 - 1363.850. The lien shall become effective upon Recordation by the Board or its authorized agent of a notice of assessment ("Notice of Lien") concerning delinquent payment of any Annual, Capital Improvement or Reconstruction Assessment or installment thereof, levied by the Association against any Condominium Owner, as provided in Section 1367 of the California Civil Code. The Notice of Lien shall state (i) the amount of the assessment or installment, as the case may be, and other authorized charges and interest, including the cost of preparing and Recording the Notice of Lien, (ii) the expenses of collection in connection with any delinquent installments, including without limitation reasonable attorneys' fees, (iii) a legal description of the Condominium against which the same has been assessed, (iv) the name and address of the Association, (v) the name of the Owner thereof, and (vi) in order for the lien to be enforced by nonjudicial

foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Lien shall be signed by the President or Vice President and Secretary or Assistant Secretary of the Association and shall be mailed no later than ten (10) calendar days after Recordation, in the manner set forth in Section 2924b of the California Civil Code, to all record Owners of the Condominium against which the Notice of Lien was recorded. The lien shall relate only to the individual Condominium against which the assessment was levied and not to the Property as a whole. Upon payment to the Association of the full amount claimed in the Notice of Lien, or other satisfaction thereof, the Board of Directors shall cause to be Recorded a notice of satisfaction and release of lien ("Notice of Release") stating the satisfaction and release of the amount claimed. The Board of Directors may demand and receive from the applicable Owner a reasonable charge for the preparation and Recordation of the Notice of Release before Recording it. Any purchaser or encumbrancer who has acted in good faith and extended value may rely upon the Notice of Release as conclusive evidence of the full satisfaction of the sums stated in the Notice of Lien.

5.10 Enforcement of Liens.

The requirements set forth in California Civil Code Section 1365.1 (or any successor or replacement statute) must be satisfied prior to enforcement of any liens by the Association. It shall be the duty of the Board of Directors to enforce the collection of any amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration. The lien on a Condominium may be enforced by sale of the Condominium by the Association, the Association's attorneys, any title insurance company authorized to do business in California, or other persons authorized to conduct the sale as a trustee, after failure of the Owner to pay any Annual, Capital Improvement or Reconstruction Assessment, or installment thereof, as provided herein. Prior to enforcement of any lien, the Association shall offer the Owner and, if so requested by such Owner, shall participate in dispute resolution pursuant to a "meet and confer" program as set forth in California Civil Code Sections 1363.810 - 1363.850 or alternative dispute resolution with a neutral third party pursuant to California Civil Code Sections 1369.510 - 1369.590. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure. The sale shall be conducted in accordance with the provisions of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any manner permitted by law. An action may be brought to foreclose the lien of the Association by the Board, or by any Owner if the Board fails or refuses to act, after the expiration of at least thirty (30) days from the date on which the Notice of Lien was Recorded; provided that at least twenty (20) days have expired since a copy of the Notice of Lien was mailed by registered or certified mail to the Owner affected thereby. The Association, through its agents, shall have the power to bid on the Condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit, and the defaulting Owner shall be required to pay the reasonable rental value for such Unit during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving any lien securing the same, but this provision or any institution of suit to recover a money judgment shall not constitute an affirmation of the

adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section shall include reasonable attorneys' fees as fixed by the court.

5.11 Priority of Assessment Lien.

The lien of the Assessments, including interest and costs of collection (including attorneys' fees), provided for herein shall be subordinate to the lien of any first Mortgage of record (meaning any Recorded Mortgage or Deed of Trust) upon any Condominium made in good faith and for value and Recorded prior to the date on which the lien became effective. Sale or transfer of any Condominium shall not affect the assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage with priority over the Assessment lien shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from liens for any Assessments thereafter becoming due. When the Mortgagee of a first Mortgage of record with priority over the Assessment lien or other purchaser of a Condominium obtains title pursuant to a judicial or nonjudicial foreclosure of that first Mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium by such acquirer; provided, however, that all such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses thereafter collectible from all of the Owners of Condominiums in the Project, including such acquirer of title, and his successors and assigns.

ARTICLE VI

6. Project Easements and Rights of Entry.

6.1 Easements.

(a) Access; Parking. Declarant expressly reserves for the benefit of the Association and the Owners reciprocal, nonexclusive easements for access, ingress and egress over all of the Common Property which is not now or hereafter reserved as Exclusive Use Areas, which easements may be conveyed by Declarant to the Owners and to the Association for so long as Declarant owns any interest in the Property. Subject to the provisions of the Restrictions governing use and enjoyment thereof, including, without limitation, the provisions for restriction of Owner access to the Common Property upon the terms and for the reasons set forth in Section 3.4 above, the Owner easements may be used by all Owners and their Family, guests, tenants and invitees residing on or temporarily visiting the Property, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Condominium in the Project. Included within the Common Property are certain unassigned parking spaces. Subject to the provisions of the Restrictions, including, without limitation, Article VII and Section 8.15(d) below and such Rules and Regulations as may from time to time be adopted by the Board, these spaces shall remain available for the nonexclusive use of the Owners and their Family, guests, tenants and invitees residing on or temporarily visiting the Property.

(b) Maintenance and Repair. Declarant expressly reserves for the benefit of the Association, the Board of Directors and all agents, officers and employees of the Association, nonexclusive easements over the Property as necessary to maintain and repair the Common Property, and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Property shall be appurtenant to, binding upon, and shall pass with the title to, every Condominium conveyed.

(c) Utilities. Easements over the Project for the installation and maintenance of electric, telephone and Telecommunication Facilities, water, gas, drainage and sanitary sewer connections and facilities, as may be hereafter required or determined necessary by the Declarant or the Board to service the Project, are hereby reserved by Declarant, together with the right to grant and transfer the same. Declarant expressly reserves for the benefit of the Association the right of Declarant and the Association to grant additional easements and rights-of-way over the Property to utility companies, Telecommunications Services companies and public agencies, as necessary, for the proper development, disposal and operation of the Property. Said easements shall be governed by the following:

(i) Each respective utility company shall maintain all utility facilities and connections on the Project owned by such utility company; provided, however, that if any company shall fail to do so, it shall be the obligation of each Owner to maintain those facilities and connections located upon or within such Owner's Unit and it shall be the obligation of the Association to maintain those facilities and connections located upon the Common Property. Notwithstanding the foregoing, internal and external telephone wiring designed to serve a single Unit, but located outside the boundaries of the Unit, shall be maintained by the Owner of said Unit;

(ii) Wherever sanitary sewer, water or gas connections, cable television lines, electric lines, telephone or Telecommunication Facilities are installed within the Project and it becomes necessary to gain access to said connections, cables and/or lines through a Unit owned by someone other than the Owner of the Unit served by said connections, cables and/or lines, the Owner of the Unit served by said connections, cables and/or lines shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon such other Unit or to have the utility companies enter upon such other Unit to repair, replace and generally maintain said connections, cables and/or lines;

(iii) Whenever sanitary sewer, water or gas connections, cable television lines, electric lines, telephone or Telecommunication Facilities are installed within the Project, and said connections, cables and/or lines serve more than one (1) Unit, the Owner of each Unit served by said connections, cables and/or lines shall be entitled to the full use and enjoyment of such portions of same as service his Unit; and

(iv) In the event of a dispute between Owners with respect to the repair or rebuilding of the aforesaid connections, cables and/or lines, or the sharing of the cost thereof, upon written request of one (1) of such Owners addressed to the Association, the matter shall be submitted to the Board who shall decide the dispute, and the decision of the Board shall be final and conclusive on the Owners.

(d) Support and Encroachments. Declarant, the Association and Owners of contiguous Units shall have a reciprocal easement appurtenant to each of the Units over the adjacent Units and the Common Property for the purpose of (1) lateral and sub-adjacent support, (2) accommodating any existing encroachment of any wall or any Improvement (including, without limitation, utility equipment, pipes, plumbing, mechanical and other structural appurtenances) resulting from the construction of the Improvements by Declarant, and (3) maintaining such encroachments and accommodating authorized construction, reconstruction, repair, shifting, movement or natural settling of the Improvements or any other portion of the Project. Easements and reciprocal negative easements for utility services and repairs, replacement and maintenance of the same over all of the Common Property are specifically reserved for the benefit of the Owners. Declarant expressly reserves for the benefit of the Common Property, and for the benefit of the Owners and the Association, reciprocal nonexclusive easements for drainage of water over, across and upon the Common Property. The foregoing easements shall not unreasonably interfere with each Owner's use and enjoyment of his Unit. No portion of the Common Property, including, without limitation, parking areas and other amenities contemplated as a part of the Property, are proposed to be leased by Declarant to the Owners or to the Association.

(e) Declarant's Rights. Declarant expressly reserves for its benefit the right and easement for access, ingress and egress on and over the Project to complete any Improvement which Declarant deems necessary or desirable to implementation of the Declarant's development plan for the Project and to install and maintain such structures, displays, advertising signs, billboards, flags, sales offices, model homes, interior design and decorator centers, and parking areas for employees, agents, and prospective buyers as may be reasonably necessary or convenient for the proper development and disposition of the Condominiums located within the Project by sale, resale, lease or otherwise, including, without limitation, operation of a sales and or leasing office. Declarant further reserves for its benefit the right and easement for access over the Property for construction equipment, access over and through the Project for purposes of equipment, material and construction staging, and access over and through the Project by all contractors, subcontractors, employees and other personnel used in connection with the planning, design, excavation, construction and other improvement work necessary to development of the Project. Declarant further expressly reserves for its benefit the right to hereafter create and convey such easements, covenants, conditions, restrictions, and licenses against, over, on, above or below the Project and the Property as necessary or helpful to facilitate the design, engineering, processing, approval, financing, development, construction and maintenance of the Project and the Property, including, without limitation, easements, covenants, conditions, restrictions, and licenses reasonably necessary to meet set-back, open space, access, fire safety, or other zoning or building codes requirements or policies. This Declaration cannot be amended to modify or eliminate the easements reserved to Declarant by this or any other Section without prior written consent of Declarant, and any attempt to do so shall have no effect.

(f) Exclusive Use Areas. Declarant expressly reserves for the benefit of certain Owners of Units in this Project exclusive easements over the Association Property for Exclusive Use Areas for parking purposes, and for internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of that Unit, in accordance with California Civil Code Section 1351(i), and shown on the Condominium Plan, or in the deed

to each Owner for their Unit, or other purposes as set forth in any supplemental conveyance to such Owner pursuant to the rights reserved to the Declarant or the Association in this Declaration.

(g) Easements for Air Conditioning/Heating Units. As to any air conditioning and/or heating equipment which is located on a portion of the Common Property, there is hereby created, established and granted an exclusive easement on, over and across said portion of the Common Property for the permanent placement of such equipment. Additionally, each Owner (including each Commercial Owner) is granted an easement for ingress, egress and access on and over the Common Property to install, maintain, repair and replace his respective air conditioning and/or heating equipment.

6.2 Rights of Entry.

The Board of Directors shall have a limited right of entry in and upon the Common Property and the interior of all Units for the purpose of inspecting the Project, and taking whatever corrective action may be deemed necessary or proper by the Board of Directors, consistent with the provisions of this Declaration. However, such entry upon the interior of a Unit shall be made, except to effect emergency repairs or other emergency measures, only after three (3) days prior written notice to the Owner of such Unit. Nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property or Improvements required to be maintained or repaired by the Owners. Nothing in this Article VI shall in any manner limit the right of the Owner to exclusive occupancy and control over the interior of his Unit. However, an Owner shall permit a right of entry to the Board of Directors or any other person authorized by the Board of Directors, as reasonably necessary, such as in case of any emergency originating in or threatening his Unit, whether the Owner is present or not. Any damage caused to a Unit by such entry by the Board of Directors or by any person authorized by the Board of Directors shall be repaired by the Association as a Common Expense of the Association.

Furthermore, an Owner shall permit other Owners, or their representatives, to enter his Unit for the purpose of performing required installations, alterations or repairs to the mechanical or electrical services to a Unit, provided that such requests for entry are made at least three (3) days in advance and entry is made at a time reasonably convenient to the Owner whose Units is to be entered; and provided further, that the entered Unit is left in substantially the same condition as existed immediately preceding such entry. In case of an emergency, such right of entry shall be immediate. Any damage caused to a Unit by such entry by an Owner or its representative shall be repaired by such Owner.

Upon receipt of reasonable notice from the Association (which shall in no event be less than fifteen (15) days nor more than thirty (30) days) each Owner shall vacate his Unit or any assigned Exclusive Use Parking Space in order to accommodate efforts by the Association to perform any other maintenance or repairs pursuant to the Declaration. The Board shall have the right to enter the Units and the right to remove Owners from their Units, as necessary, to accomplish its duties as provided herein. The cost of eradicating any pest infestation or of performing any such maintenance or repairs shall be a Common Expense of the Association;

however, each Owner shall bear his own costs of temporary relocation. If the Association acts to eradicate any pests or organisms, then the procedure established in Section 2.7 shall control.

ARTICLE VII

7. Declarant's Rights and Reservations.

Nothing in the Restrictions shall limit, and neither any Owner nor the Association shall do anything to interfere with, the right of Declarant to subdivide or resubdivide any portion of the Property, or to complete Improvements to and on the Common Property or any portion of the Property owned solely or partially by Declarant, or to alter the foregoing or its construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Property so long as any Condominium in the Project remains unsold.

The rights of Declarant hereunder shall include, but shall not be limited to, the exclusive right to install, maintain, locate, relocate and reconfigure such structures, displays, signs, billboards, flags, sales offices, model homes, construction office, interior design and decorator centers, and parking areas for employees, agents, and prospective buyers as may be reasonably necessary or convenient in Declarant's judgment for the proper development and disposition of the condominiums located within the Project by sale, resale, lease or otherwise, and the right to use any portions of the Project necessary to provide ongoing maintenance, operation, service, construction, punch-out, and repairs to individual Units. Notwithstanding anything in the Restrictions which is or appears to be to the contrary, Declarant may use any Condominium owned by Declarant in the Project, or portions of the Common Property as model homes, construction office and/or real estate sales or leasing offices; provided that use of such office shall be limited to construction of the Project and/or sales, resales and leasing of the Condominiums located on the Property.

Declarant need not seek or obtain Architectural Committee approval of any Improvement constructed, reconstructed, modified or placed by Declarant on any portion of the Property by Declarant. Declarant also reserves the right, following Recordation of this Declaration and the Condominium Plan and continuing so long as Declarant owns any interest in the Project, to create, assign and/or convey to certain Owners Exclusive Use Parking Spaces (in addition to those shown on the Condominium Plan and/or allocated to each Owner in connection with the original purchase of their Condominium) for their exclusive use as Exclusive Use Areas, provided that, with respect to any additional Exclusive Use Parking Space, such area shall be located within the parking areas in the Project, shall not have a material, adverse impact upon Owner's rights of ingress, egress and use therein and shall not result in a reduction of unreserved "guest parking" and handicap spaces located therein below the minimum required by applicable governmental requirements. Any such additional Exclusive Use Parking Space may be designated by means of any instrument which Declarant deems necessary or convenient to evidence such additional Exclusive Use Areas and shall be assigned and conveyed by a written assignment from Declarant to the affected Owner(s). Declarant further reserves the right (but not the obligation), subject to DRE approval of a revised budget for the Project, to provide for a "split roll" or "cost center" dues structure, so that the maintenance costs associated with maintenance of Common Property, or identified elements thereof, within separate portions of the

Project are segregated and borne by the Owners of the Units within those portions of the Project. All or any portion of the rights of Declarant hereunder and elsewhere in these Restrictions may be assigned by Declarant to any successor in interest to any portion of Declarant's interest in any portion of the Property by written assignment. Notwithstanding any other provision of this Declaration to the contrary, the prior written approval of Declarant, which may be granted or withheld in its sole discretion, will be required before any amendment of this Article shall be effective. Each Owner hereby grants, upon acceptance of his deed to his Unit, an irrevocable, special power of attorney to Declarant to execute and Record all documents and maps necessary to allow Declarant to exercise its rights under this Article. Declarant and its prospective purchasers of Condominiums shall be entitled to the nonexclusive use of the Common Property and recreational facilities, if any, thereon, without further cost for access, ingress, egress, use or enjoyment, in order to show the Property to those prospective purchasers, to dispose of the Property as provided herein. Declarant, its successors and tenants, shall also be entitled to the nonexclusive use of any portions of the Property which comprise private streets, driveways and walkways for the purpose of ingress, egress and accommodating vehicular and pedestrian traffic to and from the Property. The use of the Common Property by Declarant shall not unreasonably interfere with the use thereof by the other Members. Each Owner, by accepting a deed to a Condominium, hereby acknowledges that the activities of Declarant may temporarily or permanently impair the view of such Owner and may constitute an inconvenience or nuisance to the Owners, and hereby consents to such impairment, inconvenience or nuisance. This Declaration shall not limit the right of Declarant to establish, reserve, and/or grant additional licenses, easements, reservations and rights-of-way to itself, to utility companies, to cable television companies, or to others as may from time to time be reasonably necessary for the proper development and disposal of the Project.

Notwithstanding any other provisions of this Declaration to the contrary, and without limiting Declarant's unilateral rights provided elsewhere in this Declaration or in the Restrictions, until such time as Owners other than Declarant own at least ninety percent (90%) of the Units within the Project, or until the fifth (5th) anniversary of the first Close of Escrow for a Unit, whichever occurs first, Declarant's written consent shall be required before the Association may take any action with respect to the following:

(a) Reduction in the level of, or change in allocation of responsibility for maintenance of and repairs to all or any portion of the Common Property subject to this Declaration, or any other maintenance obligations of the Association set forth in this Declaration;

(b) Conveyance by the Association of all or any portion of the Common Property;

(c) Alteration in the method of fixing and collecting Assessments or any increases in Assessments beyond the amounts permitted under Article V of this Declaration;

(d) Modification of the enforcement and review procedures of the Architectural Committee, or any change in the architectural and landscaping design for the Project;

(e) Modification to Improvements on the Common Property or to the level or frequency of maintenance of the Common Property; or

(f) Alteration in the method of enforcing the provisions of this Declaration.

Each Owner, by accepting a deed to a Condominium, hereby irrevocably appoints Declarant as his attorney-in-fact, for himself and each of his Mortgagees, optionees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, for a period of ten (10) years after the close of escrow for the sale of the last Unit in the Project covered by a Final Subdivision Public Report, and hereby grants to Declarant an irrevocable limited power of attorney coupled with an interest for Declarant to act as his attorney-in-fact in connection with any modification to the development plans of all or any portion of the Project. Each Owner hereby acknowledges and agrees that this irrevocable limited power of attorney is: (a) retained for the benefit of the Declarant and not the Owner; and (b) created by Owner's acceptance of a deed to a Condominium and as part of the consideration for the purchase and sale of a Condominium. Based on the foregoing, each Owner further acknowledges and agrees that this irrevocable limited power of attorney is "coupled with an interest" and, pursuant to Section 2356 of the California Civil Code, as same may be amended, from time to time, may not be terminated by: (a) the Owner's revocation of such limited power of attorney; (b) the Owner's death; or (c) the Owner's incapacity to contract. In furtherance thereof and subject to the limitations and restrictions set forth in this Article, Declarant shall have the right and power as a duly authorized attorney-in-fact to perform any of the following actions:

(a) To prepare, execute, acknowledge and record any map, lot line adjustment, certificate of compliance or record of survey affecting the Project;

(b) To prepare, execute, acknowledge and record any amendments necessary to cause a Condominium Plan to conform with the Improvements as actually built or with the approved plans for the Project;

(c) To prepare, execute, acknowledge and file for approval any application for zoning or setback changes or lot line adjustments, or variance or conditional use permits, or any other permits or reports required or permitted by law;

(d) To make applications for any property reports or public reports, or amendments thereto, or exemption from the requirements therefor required or permitted by federal and State statutes, rules and regulations relating to the sale, lease, transfer or other disposition of subdivided lands;

(e) To deliver any public reports or property reports, or amendments thereto, obtain receipts and offer and administer rescission rights required by law;

(f) To prepare, execute, acknowledge and file for approval any registration or application for any permit, approval, exemption, ruling or entitlement, which registration or application is required or permitted by law;

(g) To prepare, execute, acknowledge and record any deeds, waivers, releases, reconveyances or other documentation which may be permitted or required to (i) clear title to any constructed or unconstructed Units in the Project; (ii) evidence the modifications made to the Project pursuant to this Section, or (iii) correct any errors or omissions in any deed or other instruments; and

(h) To prepare, execute, acknowledge and record on behalf of the Owners and the Association any easement over the Common Property, including, without limitation, easements for Exclusive Use Areas for parking purposes, and any easements reasonably necessary for the development and disposition of Condominiums within the Project.

The Association shall provide Declarant with all notices and other documents to which a Beneficiary is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefor.

Declarant shall have the right to assign any or all of its rights and obligations in this Declaration to any successor in interest by a written assignment. Notwithstanding any other provision of this Declaration to the contrary, the prior written approval of Declarant, which may be granted or withheld in its sole discretion, will be required before any amendment to this Article VII shall be effective.

For a period of ten (10) years after the Close of Escrow for the sale of the last Unit in the Project, in addition to Declarant's rights set forth herein, Declarant shall have the following rights: (1) access to and the right to inspect the Association books and financial records; (2) access to and the right to inspect the Association's maintenance records; (3) access to and the right to inspect the Association Property; (4) right to receive notice of, attend and speak at all regular and special meetings of the Board of Directors and meetings of the Members; and (5) right to receive copies of the minutes of the meetings of the Board of Directors and meetings of the Members, upon request and payment of the actual costs to copy and distribute such records.

ARTICLE VIII

8. Residence and Use Restrictions.

All of the Property shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemptions of Declarant set forth in this Declaration. The limitations and restrictions set forth in this Declaration are in addition to and shall be construed and applied cumulatively with any limitations and restrictions set forth in the Reciprocal Easement Agreement. Nothing in the limitations and restrictions set forth in this Declaration shall be construed or understood to limit, restrict or in any manner waive any of the limitations and restrictions set forth in the Reciprocal Easement Agreement.

8.1 Single Family Residences.

Each Residence shall be used exclusively for single Family residential purposes, subject to the exemption granted Declarant under Article VII of this Declaration. An Owner may rent his Unit to a single Family provided that the Unit is rented pursuant to a written lease or

rental agreement for a term greater than thirty (30) days, and such rental agreement or lease provides that it is subject to all of the provisions of the Restrictions.

(a) Leasing Provisions. The following provisions shall govern leasing of Units:

(i) General. Units may be leased only in their entirety pursuant to a single lease agreement with only a single Family as the permitted occupant. All leases must be in writing and for an initial term of not less than thirty (30) days, except with Board approval. Within seven (7) days after executing a lease agreement for the lease of a Unit, the Unit Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee with copies of the Declaration, Bylaws, and Rules and Regulations.

(ii) Compliance with Restrictions and Liability for Assessments. Each Owner and each lessee, by occupancy of a Unit, covenants and agrees that any lease for a Unit shall contain the following provisions and agrees that if such provisions are not expressly contained therein, then such provisions shall be deemed incorporated into the lease by existence of this covenant on the Unit:

(1) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Restrictions and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure compliance with the foregoing. The Owner shall cause all occupants of his or her Unit to comply with the Restrictions and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants are fully liable and may be separately sanctioned for any such violation. Unpaid fines shall, at the election of the Board, be recorded as a lien against the Unit, provided any such lien shall not be subject to non-judicial foreclosure under California Civil Code Sections 2924, 2924(b) and 2924(c).

(2) Violation of Restrictions. Any violation of the Restrictions by the lessee, any occupant, or any guest of lessee, shall be deemed a default under the terms of the lease and shall authorize the Owner to terminate the lease without liability and to evict the lessee in accordance with California law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from such violations, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be a Special Assessment and lien against the Unit.

(3) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any installment of Annual Assessment or other Assessment or any other charge to be paid by the Owner to the Association pursuant to this Declaration for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all

such rent until all unpaid amounts owned by the Owner to the Association have been paid in full. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. The above provision shall not be construed to release the Owner from any obligation, including the obligation for Assessments, for which he or she would otherwise be responsible.

(b) Inapplicability to Institutional First Mortgages. Section 8.1(a)(i) shall not apply to any leasing transaction entered into by an institutional holder (i.e., a bank, a savings and loan association, an established mortgage company or other entity chartered under federal or state laws, an insurance company, or any federal or state agency) of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

8.2 Alterations; Inside and Outside Installations.

No Owner shall make or cause to be made structural alterations to his Unit or to the Common Property which will or may tend to impair the structural integrity, mechanical systems, or sound attenuation standards of the Condominium Building, or would have a material detrimental effect on another Unit or on the Common Property, except as otherwise expressly provided herein. No outside installation of any type, including but not limited to stereo speakers or other amplified sound equipment, clotheslines, shall be constructed, erected or maintained on or outside any Unit, except as may be installed by, or with the prior consent of the Architectural Committee. No Terrace covers, wiring, air conditioning units, water softeners, or other machines or equipment of any kind or nature shall be installed on the exterior of the buildings of the Project or be allowed to protrude through the walls, floors, ceilings, windows, doors, or roofs of the buildings (with the exception of those items installed by Declarant), unless the prior written approval of the Architectural Committee is secured. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Unit shall be commenced without the prior written approval of the Architectural Committee. Each Owner shall be liable for any damage or injury caused by any alterations, replacements, or installations, or any machines or equipment used to perform such work. There shall be no alteration or replacement of wall coverings or flooring materials which may diminish the effectiveness of the sound control engineering within the Condominium Building. As provided in Section 5.6 above, with the written approval of the Declarant or the Architectural Committee, the Owner of contiguous Units may be permitted to combine one or more Units into a single living space by elimination of the demising walls otherwise separating those Units. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Project for labor or materials alleged to have been furnished or delivered to the Project or any Condominium Unit at the request of such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

8.3 Animal Regulations.

No animals, livestock, reptiles, insects, poultry or other animals of any kind shall be kept in any Unit except that usual and ordinary domestic dogs, cats, fish, and birds inside bird

cages may be kept as household pets within any Unit provided that they are not kept, bred or raised therein for commercial purposes or in unreasonable quantities or sizes. As used in the Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets (except with regard to quantities of fish) per Unit; provided, however, that the Board may determine that a reasonable number in any instance may be more. The Board shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board of Directors, a nuisance to any other Owner. Any dog which weighs more than thirty-five (35) pounds must be approved by the Board, and must be trained and have an obedience certificate issued by a licensed training agency prior to being kept on the Project. No potbellied pigs, snakes, lizards, spiders, rats, vermin, pit bulldogs, Doberman dogs, Rottweiler, mastiff, canaria press, or any other dog breed known as a "fighting breed" or mix thereof, or any other animals determined in the Board's sole discretion to be dangerous or a nuisance may be brought onto or kept on the Project at any time. The Board shall have the right to require that any pet which, in the Board's opinion, endangers the health or security of any Owner or occupant of a Unit or creates a nuisance or unreasonable disturbance, be permanently removed from the Project upon seven (7) days written notice. If the Owner or occupant fails to do so, the Board may remove the pet. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety, or property of any Owner or other occupant of a Unit may be removed by the Board without prior notice to the pet's owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Property must be kept inside the Residence element of a Unit (and shall not be left unattended on the Terrace of that Unit), and must be on a leash (not more than four feet (4') in length) held by a person capable of controlling the animal when outside of a Unit. Each Owner shall be liable to each and all remaining Owners, their Families, guests and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Project by an Owner or by members of his Family, tenants, guests or invitees. It shall be the duty and responsibility of each such Owner to clean up after such animals which have deposited droppings on or otherwise used any portion of the Common Property or any public street abutting or visible from the Property and properly dispose of any animal waste. Any Owner or occupant who keeps or maintains any pet upon the Project shall be deemed to have indemnified and agreed to hold the Association, its directors, officers, and agents, and the Declarant free and harmless from any loss, claim, or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Project.

8.4 Antenna

No radio station, satellite or shortwave operators of any kind shall operate from any Unit or any other portion of the Property unless approved by the Architectural Committee. With the exception of any master antenna maintained by the Association or any cable system maintained by applicable cable franchisee, no exterior radio antenna, "C.B." antenna, television antenna, receiving station, satellite dish or other antenna of any type (collectively, "Signal Reception Device") shall be erected or maintained anywhere in the Property, without the approval of the Architectural Committee. The Condominium Building has certain pre-wiring installed satellite Telecommunications Services and satellite dishes shall only be installed in areas designated by Declarant and/or the Architectural Committee for such installation. In considering whether to approve any application for installation of a Signal Reception Device and what conditions, if any, to impose thereon, the Committee may consider any clearly defined safety objective, the impact of any such Signal Reception Device upon Project aesthetics and

uniformity of appearance, and any potential structural damage arising from such Signal Reception Device, provided that any restriction imposed by the Committee shall be reasonable, as required by California Civil Code Section 1376 and rules and regulations promulgated by the Federal Communications Commission pursuant to Section 207 of the Telecommunications Act of 1996 (collectively, the "Antenna Statutes"). In reviewing an application for approval to install a Signal Reception Device, the Committee shall apply the same standards, criteria and guidelines to such application as applicable to any other proposed exterior improvement to any Unit and shall not impose any differential or discriminatory requirements applicable only to a proposed Signal Reception Device. In granting approval of the installation of any such Signal Reception Device, the Architectural Committee may further condition such approval upon compliance with any reasonable restrictions authorized by the Antenna Statutes. All satellite dishes approved by the Committee for installation on the Project shall be of the same color as the exterior of the Condominium Building.

Normal radio, stereo, high fidelity and television equipment installation within a Unit are excepted from the provisions of this Section; provided, however, in no event shall such radio, stereo, high fidelity, television equipment, or other electrical equipment interfere with the use of any such equipment by any other Owner within the Project.

8.5 Barbeques and Exterior Fires.

There shall be no exterior fires whatsoever, except for gas or charcoal barbecue grills contained within receptacles therefor in designated locations within the Common Property or on Terraces, arranged in such a manner that they do not create a fire hazard or otherwise create a nuisance or become offensive to occupants of other Units.

8.6 Business or Commercial Activity.

No part of the Property shall ever be used for any business, professional, administrative, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes including, without limitation, any activity for which the provider is compensated in any way or receives any form of consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license; except that Declarant, its successors and assigns may use any portion of the Property for a model home site and for sales and leasing purposes in accordance with Article VII hereof. Notwithstanding the foregoing, the provisions of this Section 8.6 shall not preclude any of the above-described activities without external evidence thereof, provided that all of the following conditions are fulfilled: (a) such activities are conducted in conformance with all applicable governmental ordinances; (b) the patrons or clientele of such activities do not visit the Unit or park automobiles or other vehicles within the Property; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Unit (except that a reasonable number of deliveries which does not disproportionately burden the services of the Project by couriers, express mail carriers, parcel delivery services and other such similar delivery services are permitted during business hours); (d) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (e) such activities are consistent with the residential character of the Property and conform with the provisions of this Declaration. No

Owner shall use his Condominium in such a manner as to interfere with the business of Declarant in selling Condominiums in the Project, as set forth in Article VII of this Declaration.

Additionally, one or more retail operations may be located on the Commercial Lots in the Building. Each Owner understands that the retail operations may have odors, fumes, loud noises, bright lights, traffic and other adverse impacts upon the Units and residents within the Project. The trash facilities for the retail operations and the traffic to and from such facilities may also have adverse odor and traffic impacts on the ground floor areas of the Building.

8.7 Common Property Facilities.

Nothing shall be altered, constructed, or removed from the Common Property without the prior written consent of the Board of Directors. There shall be no obstruction of the Common Property nor shall anything be stored in the Common Property without the prior written consent of the Board of Directors. No acquisition of additional Common Property shall be undertaken without the approval of the Board of Directors. The Board of Directors shall have the right to limit the number of guests that an Owner or such Owner's tenant may permit to use the guest parking areas, recreation facilities and other Common Property areas, and the Board shall have the right to set further reasonable restrictions on the time and manner of use of said parking areas, recreation facilities, and other facilities in accordance with the Rules and Regulations, including, without limitation, Rules and Regulations restricting or prohibiting the use of all or designated portions of the recreation facilities of the Property by minors, guests of an Owner or his tenants.

8.8 Drainage.

There shall be no interference with or alteration of the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee. For the purpose hereof, "established" drainage in the Project is defined as the drainage which exists at the time of the first Close of Escrow for the sale of a Condominium in the Project, or that which is shown on any plans approved by the Architectural Committee.

8.9 Firearms and Fireworks.

The display and discharge of firearms or fireworks on the Common Property, including the Exclusive Use Areas, is prohibited; provided that the display of lawful firearms on the Common Property is permitted by law enforcement officers and also is permitted for the limited purpose of transporting lawful firearms across the Common Property to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

8.10 Further Subdivision.

Except as otherwise provided in Article VII, no Owner shall physically or legally subdivide his Unit in any manner, including without limitation any division of his Unit or his Condominium into time-share estates or time-share uses; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease all of his Unit by means

of a written lease or rental agreement subject to the restrictions of this Declaration; (2) to sell his Condominium; or (3) to transfer or sell any Condominium to more than one Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property; or (4) to combine one or more Units into a single living space with the written approval of the Declarant or the Architectural Committee as set forth in Section 5.6 herein. Any failure by the lessee of the Unit to comply with the terms of this Declaration, the Bylaws of the Association or the Rules and Regulations shall constitute a default under the lease or rental agreement. Notwithstanding the foregoing, no Unit in the Project may be partitioned or subdivided without the prior written approval of the Beneficiary of any first Mortgage on that Unit. This Section may not be amended without the prior written approval of the Beneficiaries of at least seventy-five percent (75%) of the first Mortgages of Condominiums in the Project.

8.11 Garbage/Trash.

No garbage, trash, rubbish, or other waste material shall be kept or permitted on the Project except in garbage cans, trash containers, trash chutes, or other waste receptacles located on the Project provided for the use of all Owners. All trash must be bagged or otherwise sealed before using any trash chute located in the Project. No odor shall emanate therefrom so as to be unreasonably unsanitary, unsightly, offensive or detrimental to the Owners in the Project. Under no circumstances may explosives, fireworks, or highly flammable materials such as gasoline, kerosene, oil, oil-based paints, or solvents, be disposed of in the trash chutes or anywhere else in the Project. Any and all costs incurred by the Association for the removal of combustible or toxic materials from the trash chutes shall be borne by the offending Owner at such Owner's sole cost and expense.

8.12 Hazardous, Toxic, Flammable, Corrosive or Explosive Materials.

No Owner nor any Family member, tenant, lessee, agent, employee, licensee, or guest shall at any time bring onto or store in or on the Project any hazardous, toxic, flammable, corrosive or explosive solid, liquid, gas, or chemical substance or other material which may be hazardous to any Person or property, except for household items, handled, store and applied in accordance with all applicable government restrictions, which are normal and customary to the use and enjoyment of a residential dwelling. Use and disposal of pesticides, fungicides, herbicides, insecticides, fertilizers, and other such chemical treatments shall meet federal, state, county, and city requirements. Under no circumstances may explosives or fireworks be stored by Owners on their Units, Exclusive Use Areas, or elsewhere within the Project. Nothing other than natural rain water may be discharged into the storm drains and storm drainage system located on the Property. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil, antifreeze, solvents, paints, paint thinners, wood preservative and other such fluids shall not be discharged into storm drains or storm drainage systems on the Property or into any street, public or private. All water softeners installed in a Unit must be commercially serviced. No Owner shall deposit or dispose, or permit to be deposited or disposed, any salts or other chemicals from water softeners into the Project's drainage or sewage system.

8.13 Nuisances.

No noxious or offensive activities (including but not limited to the repair of motor vehicles) shall be carried on upon the Property or on any public street abutting or visible from the Property. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Unit and its contents, shall be placed or used in any such Unit. No loud noises, noxious odors, noisy or smoky vehicles, large power equipment or large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), unlicensed off-road motor vehicles or items which may unreasonably interfere with television or radio reception of any Owner in the Project, shall be located, used or placed on any portion of the Property or on any public street abutting or visible from the Property, or exposed to the view of other Owners without the prior written approval of the Architectural Committee. The Board of Directors of the Association shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. No Owner shall permit or cause anything to be done or kept upon the Property or on any public street abutting or visible from the Property which may increase the rate of insurance on Units or on the Property, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Owners. No Person shall commit or permit any nuisance on the Property. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Unit. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of children and any other Family members or persons residing in or visiting his Unit. Any damage to the Common Property, personal property of the Association, or property of another Owner, caused by such children, Family members, or other persons, shall be repaired at the sole expense of the Owner of the Unit where such children, Family members or other persons are residing or visiting.

8.14 Parking and Vehicular Restrictions.

(a) Authorized Vehicles. The following vehicles are Authorized Vehicles: motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two-wheel motorcycles, and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Subject to Section 8.14(c) below, only Authorized Vehicles may be parked in the parking areas in the Property intended for parking of motorized vehicles.

(b) Prohibited Vehicles. The following vehicles are Prohibited Vehicles: recreational vehicles (e.g., motor homes, travel trailers, camper vans, boats, dune buggies, etc.), commercial-type vehicles (e.g., stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, trucks with any exterior commercial advertisement, or other similar vehicles), buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles or any vehicle or vehicular equipment deemed a nuisance by the Board. Prohibited vehicles shall not be parked, stored or kept in any parking areas in the Project.

(c) General Restrictions. All Authorized Vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Unit and kept within the

Property shall be parked in that Owner's Exclusive Use Parking Space. No vehicle shall be parked in any parking space if such vehicle does not completely and clearly fit between the painted parking lines designated for a parking space or otherwise physically fit wholly within the designated space or any other portion of the parking areas in the Property designed for ingress and egress of vehicles. There shall be no parking in the Property that obstructs free traffic flow, constitutes a nuisance, violates the Rules and Regulations, or otherwise creates a safety hazard. The parking areas in the Property shall be used for parking Authorized Vehicles only and shall not be used for storage, living, recreational or business purposes. No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property. No parking shall be permitted in the fire lanes located in the Project, which fire lanes shall be appropriately marked and identified by the Association.

(d) Parking Regulations. The Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas not assigned to individual Units, including, without limitation, designating "parking," "guest parking" and "no parking" areas thereon. Any parking areas established on the Common Property (including parking areas assigned to individual Units) shall be subject to such further reasonable control and use limitations as the Board of Directors may establish. The Board shall determine, in its discretion, whether there is a violation of the parking and vehicular restrictions set forth in this Declaration or established by the Board, and, if such noncompliance is determined by the Board to exist, the Board shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Property pursuant to California Vehicle Code Section 22658.2 or other applicable statute.

8.15 Rights of Handicapped.

Subject to the provisions of Article IV of this Declaration, each Owner shall have the right to modify his Unit and the route over the Common Property leading to the front door of his Unit, at his sole cost and expense, in order to facilitate access to his Unit by persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such persons. The rights granted by this Section are further subject to the following conditions: (i) the modifications shall be consistent with applicable building code requirements; (ii) the modifications shall be consistent with the intent of otherwise applicable provisions of this Declaration pertaining to safety or the aesthetic integrity of the Project; (iii) the modifications which are external to the Unit shall not prevent reasonable passage by other Owners or Persons on the Project, and shall be removed by the Owner when the Unit is no longer occupied by persons requiring those modifications; (iv) any Owner who intends to modify a Unit pursuant to this Section shall submit their plans and specifications to the Architectural Committee for review to determine whether the modifications comply with the provisions of Article IV and this Section; and (v) any change in the exterior appearance of a Unit shall be in accordance with the provisions of this Declaration and all applicable provisions of law. The Association shall not deny approval of the proposed modifications under this Section without good cause.

8.16 Roof Access Restrictions.

Owners, their Families, guests, tenants, agents, licensees, employees, and invitees, shall not at any time or for any reason whatsoever enter upon or attempt to enter upon (i) the roofs of the Condominium Building; and (ii) any portion of the Common Property used by the Association for management, administrative, or security purposes (including, without limitation, utility closets and rooms), without the prior approval of the Board.

8.17 Signs.

Subject to California Civil Code Sections 712, 713 and 1353.6 (or any applicable successor statute), no signs shall be displayed to the public view on any Unit or on any other portion of the Project, except non-commercial signs may be displayed from any Unit that are approved by the Board or a committee appointed by the Board, that conform to the Rules and Regulations regarding signs, and that conform to the requirements of State law, and applicable local ordinances. "For Sale" or "For Rent" or "For Exchange" signs shall be allowed to be displayed within areas of the Project that are designated in the Rules and Regulations regarding such signs, and that conform to the requirements of State law, and applicable local ordinances, provided the design, dimensions and locations are reasonable. An Owner or his or her agent may display one (1) such For Sale or For Rent or For Exchange sign within a Unit and one sign in the Association Property advertising directions to the Owner's Unit which is for sale, rent, or exchange, provided the design, dimensions and locations are reasonable and comply with the Rules and Regulations regarding signs, and comply with the requirements of State law, and applicable local ordinances. These restrictions on display of signs apply to signs that are visible from the exterior of a Unit, and are not intended to restrict signs that may be seen only from within the Unit in which the sign(s) is displayed. The Board shall also have the right, but not the obligation, to erect within the Common Property a master directory of Units which are for sale or lease within the Project, which master directory shall be located on or at an area in the immediate vicinity of the Condominium Building entrance so as to centralize and segregate all sales activity and locations within the Project. This Section shall not apply to any signs used by Declarant or its agents in connection with the sale of Condominiums or the construction or alteration of the Units or Common Property, traffic and visitor parking signs installed by Declarant, and traffic and parking control signs installed with the consent of the Board. Notwithstanding the foregoing, nothing contained in this Section shall be construed in such manner as to permit the maintenance of any sign which is not in conformance with any ordinance of the city or county in which the Property is located.

8.18 Sound Attenuation.

In any multi-family dwelling, sounds may be audible from one Unit to the next (adjacent, above or below), particularly where the sound level of the source is sufficiently high and the background noise in an adjacent Unit is very low. Examples may include loud music, television, video games, reproduction equipment, musical instruments, bouncing balls/toys, hard heels and shoes, very loud conversations, etc. Each Owner shall endeavor to minimize any noise transmission from his Unit, and shall adhere to all Rules and Regulations which are designed to minimize noise transmission. The requirements set forth in this Section are subject to further definition and more stringent requirements adopted by the Architectural Committee from time to

time. In the event of any conflict between or among the protective covenants set forth in this Declaration and the Building Code or applicable municipal code requirement, as the same may be amended from time to time, the most restrictive of said requirements shall be controlling.

To reduce the noise transmission from a Unit, each Owner (other than Declarant) shall adhere to the following:

(a) General Requirements.

(i) Consideration shall be given to one's neighbors with respect to the playing of musical instruments or other potential noises that may affect another Unit.

(ii) Consideration shall be given to one's neighbors with respect to parties and loud activity within a Unit.

(iii) Activity within a Unit shall not exceed the provisions of the local municipal code or County code.

(iv) Pianos shall have neoprene pads under the supports to reduce vibration transmission into the structure.

(b) Home Theater Systems and Stereo Systems. Speakers and subwoofers for audio or audio/visual reproduction/entertainment shall not be supported from, installed within, or placed in contact with or close proximity to demising walls (party walls) or ceilings.

(c) Other Systems or Devices. Other systems or devices that are modified or replaced by an Owner, including, but not limited to, plumbing systems or fixtures, mechanical systems, equipment, spa tubs, etc., shall not result in an increase in noise transfer to other Residences. No system or device shall be operated in such a manner as to cause feelable vibration within any other Unit or within the Common Property.

(d) Preservation of Airborne Sound Isolation.

(i) No holes or penetrations shall be made in any demising assembly (e.g., party wall, residence/corridor wall, party floor-ceiling) without the express approval of the Architectural Committee; provided however, an Owner may penetrate up to one and one half inches (1½") into any wall or column for the purpose of hanging art or pictures.

(ii) No modifications to the construction of a Unit which is adjacent to another Unit shall be made by or on behalf of the Unit Owner without the express approval of the Architectural Committee.

(iii) No modifications to the construction of any Unit, including HVAC, plumbing and electrical shall be made by or on behalf of the Unit Owner without the express approval of the Architectural Committee.

(e) Impacts from Improvements - Airborne Sound Insulation. Any change to a Unit which may have an impact to another Unit shall be required to maintain the existing design sound insulation between Units. The demising party walls and floor-ceiling assembly must maintain a field tested NIIC rating consistent with the remainder of the Condominium Building. Any changes to the entry door(s) of a Unit shall maintain an equivalent level of sound isolation as provided by the improvement as delivered by Declarant. Acoustical testing of the to-be-modified assembly shall be performed prior to any modification.

8.19 Submission of Design Approach and Laboratory Impact Isolation Tests for Hard Surface Floors.

Except for floor installations and options provided by Declarant, if an Owner has selected a different type of hard surface flooring material/acoustical underlayment combination to install in his or her Unit, such Owner must submit to the Architectural Committee for review and approval (well in advance of purchasing materials or beginning construction) the following information:

(a) Product literature clearly specifying the type of flooring to be installed and the proposed underlayment to be provided to mitigate against impact noises such as footfalls. The product literature must clearly identify and describe all materials, their composition and thickness.

(b) A plan view drawing of the hard surface flooring area indicating the location of all adjacent partitions, cabinets, etc., with referenced section details indicating the method of isolating the hard surface flooring along the entire perimeter.

(c) A copy of the installation instructions from the flooring manufacturer and, where applicable, the resilient floor underlayment manufacturer.

(d) The name, qualifications, and experience of the contractor who will install the hard surface flooring and, where applicable, the resilient underlayment with a listing of their experience in the installation of floor utilizing impact insulation materials.

(e) The names and contact information for the individual(s) who will oversee the installation in order to verify that the installation is in accordance with the manufacturer's requirements.

No construction shall be permitted until appropriate information is submitted to and approved by the Architectural Committee. Submission of these materials to the Committee shall be for the purpose of documenting the location and design of any hard surface flooring within the Project and to insure that such flooring is installed in a professional manner and with reference to appropriate standards and building codes. In the event that construction has commenced prior to approval, and it does not meet the approval of the committee, the unauthorized materials shall be removed at the Owner's expense.

8.20 Terraces.

Terraces shall be used only as an outdoor living area containing patio furniture, potted plants, and other similar outdoor furnishings which comply with the standards governing the appearance of such items as set forth in the Rules and Regulations. Said furnishings shall be equipped with protective leg caps or other devices to prevent damage to the floor of the Terrace. No Improvement shall be nailed, bolted, or otherwise attached to the floor, walls, or any other portion of the Terrace. No hanging screens or banners which may be visible from any other Units, the Common Property or other property are permitted on any portion of the Terrace. Any plants placed on Terraces must have sufficiently large receptacles to contain all drainage from such plants and must not be allowed to collect condensates or moisture between the receptacles and the Terrace's floor. Any item or vegetation maintained upon any Terrace, which item or vegetation is exposed to the view of any Owner, shall be removed or otherwise altered to the satisfaction of the Architectural Committee, if such Committee determines that the maintenance of such item or vegetation in its then existing state is contrary to the purposes or provisions of this Declaration and the effective operation of the Project. If an Owner fails to perform necessary pruning, trimming, or thinning required by the Committee, the Association shall have the right, after Notice and Hearing, to enter upon such Residence and Terrace for the purpose of performing such work.

Terraces shall not be used for storage of any type, including, without limitation, boxes, tools, exercise and sports equipment, bicycles, cleaning utensils and supplies or other household items. Terraces shall be maintained in a clean, neat, and sanitary condition at all times and nothing shall be placed on Terraces so as to render them unsightly or offensive to the other Owners or to any other property in the vicinity of the Project or its occupants. No clothing or household fabrics, curtains, rugs, mops, or other unsightly articles shall be hung, dried or aired in such a way as to be visible from any other Units, the Common Property or other property. No dust, dirt or other substances shall be shaken, swept or thrown from or hosed off the Terraces on or into any Common Property. Any item which in the opinion of the Board or the Committee is unsightly or offensive shall be removed from the Terrace upon receipt of written notice of such determination from the Board or the Committee.

No Terrace covers shall be installed on the exterior of the Condominium Building (with the exception of those items installed by Declarant), unless the prior written approval of the Architectural Committee is secured. Notwithstanding the specificity of the foregoing, no exterior addition, change, or alteration to any Unit shall be commenced without the prior written approval of the Architectural Committee.

8.21 Ventless Clothes Dryer.

Only electric ventless dryers approved by an agency of the City of Los Angeles may be used in the Project.

8.22 View Obstructions.

No vegetation or other obstruction shall be planted or maintained in such location or of such height as to unreasonably obstruct the view from any other Unit in the vicinity thereof.

If there is a dispute between Owners concerning the obstruction of a view from a Unit, the dispute shall be submitted to the Architectural Committee, whose decision in such matters shall be binding. Any such obstruction shall, upon request of the Architectural Committee, be removed or otherwise altered to the satisfaction of the Architectural Committee, by the Owner of the Unit upon which the obstruction is located. The Architectural Committee shall ensure that the vegetation on the Common Property maintained by the Association is cut frequently. Each Owner, by accepting title to a Condominium, hereby acknowledges that (a) although the Architectural Committee may prohibit the installation of Improvements on a Unit or prohibit the installation or require the pruning, trimming or thinning of landscaping from a Unit where such Improvements or landscaping would unreasonably obstruct the views from any other Units, there are no protected views within the Property, and no Condominium is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping or other installation of Improvements by Declarant or other Owners may impair the view from any Condominium, and the Owners hereby consent to such view impairment.

8.23 Water Supply System.

No individual water supply or water softener system shall be permitted in any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of any applicable water district, the locality in which the Property is located, and all other applicable governmental authorities.

8.24 Weight Restrictions.

By acceptance of a deed to a Unit, each Owner acknowledges that each Unit is designed to withstand a maximum weight of (i) forty pounds per square foot (40 lbs/sf) of "live load" or temporary weight which includes, but is not limited to, people, furniture, and equipment; or (ii) 10 pounds per square foot (10 lbs/sf) of "dead load" or permanent weight, which includes, but is not limited to, floor covering. Notwithstanding the foregoing live load limit guideline, any piece of furniture, equipment or the like that weighs more than 2,000 pounds shall be checked by a California licensed Structural Engineer for compliance with the weight restriction prior to installation. Any stone counter top or stone flooring material installed by Declarant should not be replaced with any material which is heavier in weight than the originally installed counter top and flooring materials. A Unit Owner may not exceed the weight restrictions imposed herein without the prior written consent of the Architectural Committee. Any application submitted to the Architectural Committee for approval to exceed the weight limit set forth in this Section shall be accompanied with a structural impact report from a qualified structural engineer, which report shall include any strengthening measures in order to not adversely impact the structural integrity of the floor.

8.25 Window Coverings.

No window in any Unit shall be covered in whole or in part, inside or outside, with aluminum foil, newspaper, paint, reflective tint or covering, or any other material reasonably deemed by the Architectural Committee to be inappropriate for such use. No window covering shall be installed, unless the prior written approval of the Architectural Committee is

secured. All draperies and window covering must be lined with white or off-white colored materials on the side visible from the outside of the Unit.

ARTICLE IX

9. Insurance.

9.1 Duty to Obtain Insurance; Types.

The Board shall cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), with such limits as may be considered acceptable to FNMA (not less than Two Million Dollars (\$2,000,000)) covering all claims for personal injury and property damage arising out of a single occurrence), insuring against liability for bodily injury, death and property damage arising from the activities of the Association and its Members or from activities of the officers and directors of the Association acting in their capacity as representatives of the Association, with respect to the Common Property. The Board shall also cause to be obtained and maintained fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Property and all Improvements thereon. Such insurance shall be maintained for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured, subject, however, to loss payment requirements as set forth herein. The Board of Directors shall purchase such other insurance and endorsements, as it determines necessary, including, but not limited to, casualty, errors and omissions, directors, officers and agents liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability and vandalism insurance, flood insurance, earthquake insurance, fidelity bonds and worker's compensation, and insurance against such other risks as is customarily carried with respect to condominium projects similar in construction, location and use; provided, that, in any event, the Board shall maintain such insurance coverage as necessary to satisfy all requirements of: (i) FNMA, FHLMC, GNMA, (so long as any of which is a Mortgagee or Owner of a Condominium within the Project) except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA, and FHLMC, as applicable; and (ii) California Civil Code Sections 1365.7 and 1365.9; and (iii) the Reciprocal Easement Agreement. Fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling funds of the Association, including, but not limited to, officers, directors, trustees, employees and agents of the Association and employees of the Manager of the Association, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than the sum equal to one-fourth ($\frac{1}{4}$) of the Annual Assessments on all Condominiums in the Project, plus reserve funds.

9.2 Waiver of Claim Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available,

whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said Persons.

9.3 Right and Duty of Owners to Insure.

It is the responsibility of each Owner to provide insurance on his personal property and upon all other property and Improvements within his Unit. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability for damage to person or property occurring inside his individual Unit or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

9.4 Notice of Expiration Requirements.

If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity bonds shall provide that they may not be canceled or substantially modified without ten (10) days prior written notice to any insurance trustee named pursuant to Section 9.6 and to each FNMA servicer who has filed a written request with the carrier for such notice.

9.5 Insurance Premiums.

Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Annual Assessments levied by the Association and collected from the Owners. That portion of the Annual Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the Reserve Fund, to be used solely for the payment of premiums of required insurance as such premiums become due.

9.6 Trustee for Policies.

The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy shall be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. A record of all claims made shall be kept by the Association. All insurance proceeds

under any such policies as provided for in Section 9.1 above shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to acknowledge receipt of the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in Article X of this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Article X of this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. Notwithstanding the foregoing, there may be named as an insured, a representative chosen by the Board, including a trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

9.7 Actions as Trustee.

Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance, in a manner satisfactory to Beneficiaries of seventy-five percent (75%) of the first Mortgages held by first Mortgagees who have filed requests under Section 9.4. Duplicate originals or certificates of all policies of fire and casualty insurance maintained by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who have requested the same in writing.

9.8 Annual Insurance Review.

The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance referred to in Section 9.1 above. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on the Property except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

The Board shall, upon issuance or renewal of the Association policy of public liability insurance, but no less than annually, notify its Members as to the amount and type of liability insurance carried by the Association, and it shall accompany this notification with statements to the effect that the Association is or is not insured to the levels specified by California Civil Code Section 1365.9, and that if not so insured, Owners may be individually liable for the entire amount of a judgment arising solely as a result of an act or omission occurring on the Common Property, and if the Association is insured to the levels specified in said Section, then Owners may be individually liable only for their proportional share of assessments levied to pay the amount of any judgment which exceeds the limits of the Association's liability insurance.

9.9 Required Waiver.

All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

- (a) subrogation of claims against the Owners and tenants of the Owners;
- (b) any defense based upon coinsurance;
- (c) any right of setoff, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (d) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured;
- (e) any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;
- (f) notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium;
- (g) any right to require any assignment of any Mortgage to the insurer;
- (h) any denial of an Owner's claim because of negligent acts by the Association or other Owners; and
- (i) prejudice of insurance by any acts or omissions of Owners that are not under the Association's control.

ARTICLE X

10. Destruction of Improvements.

10.1 Restoration of the Property.

Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Property, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article IX hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the

construction plans for the Project if they are available, unless changes recommended by the Architectural Committee have been approved in writing by sixty-seven percent (67%) of the Owners and by the Beneficiaries of fifty-one percent (51%) of first Mortgages upon the Condominiums. If the amount available from the proceeds of such insurance policies for such restoration and repair is at least eighty-five percent (85%) of the estimated cost of restoration and repair, a Reconstruction Assessment shall be levied by the Board of Directors to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than eighty-five percent (85%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("Conditions to Reconstruction") have first been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Property is approved by the affirmative vote or written consent of sixty-seven percent (67%) of the Owners and by the written consent of the Beneficiaries of fifty-one percent (51%) of the first Mortgages on the Condominiums in the Project; and (b) within six (6) months after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("Reconstruction Certificate"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than eighty-five percent (85%) of the estimated cost of restoration and repair, it shall be conclusively presumed that the Owners have determined not to proceed with restoration and repair and not to allow the Board to levy a Reconstruction Assessment, in which case the Owners shall proceed as provided in Section 10.2 below.

10.2 Sale of Property and Right to Partition.

No Owner shall have the right to partition of his interest in the Condominium and there shall be no judicial partition of the Project, or any part thereof, except as provided in Section 1359(b) of the California Civil Code, as amended, or in any successor statute. For purposes of Subsection 4 of said Section 1359(b), partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 10.1 above have failed to occur; and (b) restoration or repair of the Project is not actually occurring; and (c) the Owners of sixty-seven percent (67%) of the Condominiums in the Project approve the partition by vote or written consent. In such event, the Association, acting through a majority of the Board, shall prepare, execute and Record, as promptly as practical, a certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Project for the benefit of the Owners, and such other documents and instruments as may be necessary for the Association to consummate the sale of the Property at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately prior to such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Project. For purposes of calculating the portion of the sale and insurance proceeds or condemnation proceeds allocable to Declarant, the value of

the Condominiums owned by Declarant shall include the value of Declarant's right to construct Condominiums which were not yet built as of the date of such destruction or condemnation and the value of the undivided interests in the Common Area which would be appurtenant to such Condominiums. The Board is hereby authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. Notwithstanding the foregoing, the balance then due on any valid encumbrance of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing herein shall be deemed to prevent partition of a co-tenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Project and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment. In the event of a total or partial destruction of the Project and a decision not to rebuild as described above, the Association shall remove debris from the affected portion of the Project and such portion of the Project shall be made as safe and attractive as reasonably possible.

10.3 Interior Damage.

With the exception of any casualty or damage insured against by the Association pursuant to Section 9.1 of this Declaration, restoration and repair of any damage to the interior of any individual Unit, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Unit so damaged. In the event of a determination to rebuild the Property after partial or total destruction, as provided in this Article X, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, and in accordance with plans approved by the Architectural Committee to the extent such approval is required under Article IV above. Nothing within this Section 10.3 shall limit the rights of any one Owner against another Owner for any damage to the interior of a Unit caused by such other Owner.

10.4 Notice to Owners and Listed Mortgagees.

The Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Property, shall promptly notify all Owners and Beneficiaries, insurers and guarantors of first Mortgages on Condominiums in the Project who have filed a written request for such notice with the Board. The Board, immediately upon having knowledge of any damage or destruction affecting a Condominium, shall promptly notify any Beneficiary, insurer or guarantor of any Mortgage encumbering such Condominium who has filed a written request for such notice with the Board.

ARTICLE XI

11. Eminent Domain.

The term "taking" as used in this Article shall mean condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent

domain. The Board shall represent the Owners in any proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Unit Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article XI.

11.1 Project Condemnation.

If there is a taking of an interest in all or part of the Property such that the ownership, operation and use of the Property in accordance with the provisions of this Declaration is substantially and adversely affected, and within one hundred twenty (120) days after the effective date of the taking the Owners of Units (a) not taken, or (b) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition prior to the taking (collectively, the "Remaining Units") do not by affirmative vote of at least one-third of their voting power approve the continuation of the Project and the repair, restoration and replacement to the extent feasible of the Common Property and the Remaining Units, then the Board shall proceed with the sale of that portion of the Property which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 10.2.

11.2 Condemnation of Common Property.

If there is a taking of all or any portion of the Common Property, or any interest therein, other than the taking of an undivided interest therein taken as a result of the taking of a Condominium, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

11.3 Condemnation of Condominiums.

If there is a taking of a Condominium, the award in condemnation shall be paid to the Owner of the Condominium; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority.

11.4 Condemnation of Portions of Units.

(a) Minor Takings Within Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration of such Units can be accomplished at a cost less than or equal to the sum of (A) the amount of the condemnation awards for such takings plus (B) any amounts the Owners of the taken Units wish to contribute to restoration plus (C) an amount less than or equal to five percent (5%) of the Budgeted gross expenses of the Association for that Fiscal Year (collectively, the "Allowable Cost"), then the Board shall contract for such restoration and levy a Reconstruction Assessment in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners' contributions, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards in excess of the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decreases in the fair market

values of their Condominiums; provided, however, that such awards shall first be applied to the balance then due on any Mortgages encumbering such Owners' Condominiums, in order of priority.

(b) Minor Takings Exceeding Limits. If (i) there is a taking of a portion of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a Special Meeting of the Members. If more than fifty percent (50%) of the Members are represented at such Special Meeting, either in person or by proxy, and a majority of the votes cast at such Special Meeting are in favor of levying a Reconstruction Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units wish to contribute to such restoration, then the Board shall contract for such restoration and levy a Reconstruction Assessment, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration.

(c) Major Takings. If the requisite approval is not obtained at the Special Meeting referred to in Section 11.4(b), or if there is a taking of a portion of one or more Units such that the Units are not capable of being restored in such a manner that the intended use of the Units as residential dwellings is not substantially and adversely affected, then the award in condemnation shall be paid to the Owners of the taken Units; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units shall become part of the Common Area. The Owners of such taken Units in the Project, by acceptance of the award allotted to them in taking proceedings, hereby relinquish to the other Owners in the Project, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area. Each Owner relinquishing his interest in the Common Area pursuant to this Section shall, at the request of the Board and at the expense of the Association, execute and acknowledge such deeds and other instruments which the Board deems necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit or Residence shall not be liable for assessments under this Declaration which accrue on or after the date such Owner accepts his condemnation award.

11.5 Portions of Awards in Condemnation Not Compensatory for Value of Real Property.

Those portions of awards in condemnation which do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

11.6 Notice of Owners and Mortgagees.

The Board, upon learning of any taking affecting a material portion of the Property, or any threat thereof, shall promptly notify all Owners and those Beneficiaries, insurers

and guarantors of Mortgages on Condominiums in the Project who have filed a written request for such notice with the Association. The Board, upon learning of any taking affecting a Condominium, or any threat thereof, shall promptly notify any Beneficiary, insurer or guarantor of a Mortgage encumbering such Condominium who has filed a written request for such notice with the Association.

ARTICLE XII

12. Rights of Mortgagees.

Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration shall operate to defeat or render invalid the rights of the Beneficiary under any Deed of Trust upon a Condominium made in good faith and for value, provided that after the foreclosure of any such Deed of Trust such Condominium shall remain subject to this Declaration, as amended. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Condominium, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage. For purposes of any provision of this Declaration or the other Restrictions which require the vote or approval of a specified percentage of first Mortgagees, such vote approval shall be determined based upon one (1) vote for each Condominium encumbered by each such first Mortgage. In order to induce FHLMC, GNMA and FNMA to participate in the financing of the sale of Condominiums within the Project, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of this Declaration or any other of the Restrictions, these added restrictions shall control):

(a) Upon written request to the Association, identifying the name and address of the Mortgagee, insurer or guarantor of a first Mortgage encumbering any Condominium and the Condominium number or address, such Mortgagee, insurer or guarantor will be entitled to timely written notice of:

(i) any condemnation or any casualty loss which affects a material portion of the Project or any Condominium on which there is a first Mortgage held, insured, or guaranteed by such Mortgagee insurer or guarantor, as applicable;

(ii) any default in performance of obligations under the Project Documents or delinquency in the payment of Assessments or charges owed by an Owner of a Condominium subject to a first Mortgage held, insured or guaranteed by such Mortgagee, insurer or guarantor, which remains uncured for a period of sixty (60) days;

(iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(iv) any proposed action under this Declaration which would require the consent of a specified percentage of first Mortgagees.

(b) Every Owner, including every first Mortgagee of a Mortgage encumbering any Condominium who obtains title to such Condominium pursuant to the remedies provided in such Mortgage, or pursuant to foreclosure of the Mortgage, or by deed (or

assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Restrictions.

(c) Each first Mortgagee of a Mortgage encumbering any Condominium, which obtains title to such Condominium, pursuant to judicial foreclosure or the powers provided in such Mortgage, shall take title to such Condominium free and clear of any claims for unpaid assessments or charges against such Condominium which accrued prior to the time such Mortgagee acquires title to such Condominium in accordance with Section 5.10.

(d) Unless at least sixty-seven percent (67%) of the first Mortgagees or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) by act or omission seek to abandon or terminate the Project;
or

(ii) change the method of determining the obligations, assessment dues or other charges which may be levied against any Owner or change the pro rata interest or obligations of any Condominium for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the pro rata share of ownership of each Owner in the Common Area unless the change is authorized in this Declaration; or

(iii) partition or subdivide any Unit; or

(iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property as authorized in this Declaration. (The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Property under this Declaration, and the granting of exclusive easements to Owners over portions of the Common Property to conform the boundaries of the Common Property to the as-built location of Improvements installed or constructed by Declarant shall not be deemed a transfer within the meaning of this clause); or

(v) use hazard insurance proceeds for losses to any Property (i.e., Improvements to the Units or Common Property) for other than the repair, replacement or reconstruction of such Property, except as provided by statute in case of substantial loss to the Units or Common Property; or

(vi) by act or omission change, waive or abandon the provisions of this Declaration, or the enforcement thereof, pertaining to the architectural design or control of the exterior appearance of Improvements on the Property or the maintenance of the Common Property, or any walks, fences, driveways, or landscaping in the Project; or

(vii) fail to maintain or cause to be maintained fire and extended coverage on insurable Common Property as provided in Article IX of this Declaration.

(e) All Mortgagees, insurers and guarantors of first Mortgages, upon written request, shall have the right to (1) examine the books and records of the Association,

including current copies of all the Restrictions and financial statements, during normal business hours, (2) require the Association to submit an annual audited financial statement for the preceding Fiscal Year within one hundred twenty (120) days of the end of the Association's Fiscal Year, if one is available, or have one prepared at the expense of the requesting entity if such statement is not otherwise prepared by the Association, (3) receive written notice of all meetings of the Owners, and (4) designate in writing a representative to attend all such meetings. All Owners shall also have the right to examine the books and records of the Association, including current copies of all the Restrictions and financial statements, during normal business hours.

(f) All Mortgagees, insurers and guarantors of first Mortgagees, upon written request, shall be given sixty (60) days' written notice prior to the effective date of (1) any proposed material amendment to the Restrictions or Condominium Plans; (2) any termination of an agreement for professional management of the Property following any decision of the Owners to assume self-management of the Project; and (3) any proposed termination of the Property as a condominium project.

(g) The Reserve Fund described in Article V of this Declaration must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large special assessments.

(h) The Board shall secure and cause to be maintained in force at all times a fidelity bond for any Person handling funds of the Association, including, but not limited to, employees of the professional Manager.

(i) No provision of the Restriction shall be construed or applied to give any Owner, or any other party, priority over any rights of the Mortgagees of a first Mortgage in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of condominiums and/or Common Property.

(j) In addition to the foregoing, the Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of FHLMC, FNMA or GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Condominiums. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of their residential Condominiums, if such agencies approve the Property as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time.

(k) Each Owner hereby authorizes the first Mortgagee of a first Mortgage on his Condominium to furnish information to the Board concerning the status of such first Mortgage and the loan which it secures.

(l) When professional management has been previously required by the Restrictions or a Mortgagee, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of sixty-seven percent

(67%) of the voting power of the Association and the Mortgagees of fifty-one percent (51%) of the first Mortgages of Condominiums in the Project.

(m) All intended Improvements in the Project shall be substantially completed or the completion of such Improvements shall be secured by a bond or other arrangement acceptable to the DRE prior to the first Close of Escrow for the sale of a Condominium in the Project.

(n) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(o) It is the intent of Declarant that this Declaration, the Articles and Bylaws of the Association, and the Project in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any mortgage of a Condominium in the Project by FNMA, FHLMC, or GNMA. The Association and each Owner shall take any action or shall adopt any resolutions required by Declarant, in its sole discretion, to conform this Declaration or the Project to the requirements of any of these entities or agencies.

(p) Any Beneficiary shall have the right, but not the obligation, at any time prior to the termination of this Declaration, and without payment of any penalty, to do any act or thing required of any party hereunder; and to do any act or thing which may be necessary or proper to be done in the performance and observance of the agreements, covenants and conditions hereof. All payments so made and all things so done and performed by any Beneficiary shall be effective to prevent a default under this Declaration as the same would have been if made, done and performed by any party hereto instead of by said Beneficiary. Any event of default under this Declaration which in the nature thereof cannot be remedied by Beneficiary shall be deemed to be remedied if: (a) within thirty (30) days after receiving written notice from the Association setting forth the nature of such event of default, or prior thereto, the Beneficiary shall have acquired the Condominium owned by the defaulting party or shall have commenced foreclosure or other appropriate proceedings in the nature thereof, (b) the Beneficiary diligently prosecutes any such proceedings to completion, (c) the Beneficiary shall have fully cured any default in the payment of any monetary obligations owed the Association hereunder within such thirty (30) day period and shall thereafter continue to perform faithfully all such non-monetary obligations which do not require possession of the Property, and (d) after gaining possession of the Property following a foreclosure or deed in lieu thereof, the Beneficiary performs all other obligations of the defaulting party hereunder as and when the same are due.

ARTICLE XIII

13. Duration and Amendment.

13.1 Duration.

This Declaration shall run with the land and shall continue in full force and effect until a Declaration of Termination is Recorded, satisfying the requirements of an amendment to

this Declaration as set forth in Section 13.2. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant Membership in the Association, as long as this Declaration shall continue in full force and effect. The provisions of this Article are subject to the provisions of Sections 10.2 and 11.4 of this Declaration.

13.2 Amendment.

(a) Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association at which a proposed amendment is to be considered. The resolution shall be adopted by the vote, in person or by proxy, or affirmative written ballot of Members representing not less than (i) sixty-seven percent (67%) of the voting power of the Association, and (ii) sixty-seven percent (67%) of the voting power of the Association residing in Members other than Declarant, provided that the specified percentage of the voting power of the Association necessary to amend a specified Section or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision.

(b) In addition to the required notice and consent of Members and Declarant provided above, the Mortgagees of fifty-one percent (51%) of the first Mortgages on all the Condominiums in the Project must approve any amendment to this Declaration which is of a material adverse nature to Mortgagees.

(c) Notwithstanding anything to the contrary contained in this Declaration, Sections 2.2(b), 2.2(c), 2.2(d) and 15.4 of this Declaration shall not be amended without the vote or approval by written ballot of at least (a) ninety percent (90%) of the voting power of the Members of the Association other than Declarant, and (b) at least ninety percent (90%) of the Mortgagees.

(d) Termination of this Declaration shall require approval by the Members as provided in subsection (a) of this Section 13.2. No such termination shall be effective unless it is also approved in advance either by fifty-one percent (51%) of the Mortgagees of the first Mortgages on all of the Condominiums in the Project (if said termination is proposed by reason of the substantial destruction or condemnation of the Project) or by sixty-seven percent (67%) of such Mortgagees (if said termination is for reasons other than such substantial destruction or condemnation). Any distribution of excess funds held by the Association upon the termination of the Project shall be made equally to each Owner.

(e) Each Mortgagee of a first Mortgage on a Condominium in the Project which receives proper written notice of a proposed amendment or termination of this Declaration by certified or registered mail with a return receipt requested shall be deemed to have approved the amendment or termination if the Mortgagee fails to submit a response to the notice within sixty (60) days after the Mortgagee receives the notice.

(f) A copy of each amendment shall be certified by at least two (2) officers of the Association, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by two (2) officers of the Association, stating that the requisite number of Owners and Mortgagees have either voted for or

consented in writing to any amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years.

(g) Notwithstanding any other provision of this Section 13.2, at any time prior to the first Close of Escrow for the sale of a Condominium within the Project, Declarant may unilaterally amend or terminate this Declaration by Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant.

(h) Notwithstanding any other provision of this Declaration, for so long as Declarant owns any portion of the Property or Unit thereon, Declarant may, in its sole discretion, unilaterally amend this Declaration by Recording a written instrument signed by Declarant in order to conform this Declaration to the requirements of DRE, FNMA, GNMA, or FHLMC then in effect or to any applicable statutory legal requirements.

13.3 Protection of Declarant.

The prior written approval of Declarant, as developer of the Property, will be required before any amendment which would impair or diminish the rights of Declarant to complete the Property or sell or lease Condominiums therein in accordance with this Declaration shall become effective. Notwithstanding any other provisions of the Restrictions, until such time as Declarant no longer owns any Condominiums in the Property, the following actions, before being undertaken by the Association, shall first be approved in writing by Declarant:

(a) Any amendment or action requiring the approval of first Mortgagees pursuant to this Declaration, including without limitation all amendments and actions specified in Section 13.2;

(b) The levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Common Property by Declarant;

(c) Subject to Section 5.5 regarding limitations on Annual Assessment increases, any significant reduction of Association maintenance or other services; or

(d) Any modification of the rights reserved and granted to Declarant herein, including, without limitation, those rights set forth in Section 6.1, Article VII and Article XV.

ARTICLE XIV

14. Enforcement of Certain Bonded Obligation.

14.1 Consideration by Board of Directors.

If (1) the Improvements to be located on the Common Property in the Project are not completed prior to the issuance of a Final Subdivision Public Report for that Project by the DRE for the sale of Condominiums in the Project, and (2) the Association is obligee under a

bond or other arrangement ("Bond") required by the DRE to secure performance of the commitment of Declarant to complete such Improvements, the Board of Directors of the Association shall consider and vote on the question of action by the Association to enforce the obligations under the Bond, with respect to any such Improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Improvement on the Common Property, the Board shall be directed to consider and vote on the aforesaid question (if a Notice of Completion has not been filed), within thirty (30) days after the expiration of the extension.

14.2 Consideration by the Members.

A special meeting of Members, for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, shall be held no fewer than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) of the total voting power of the Association residing in Members other than Declarant. A vote at such meeting to take action to enforce the obligations under the Bond by Members representing a majority of the total voting power of the Association residing in Members other than Declarant shall be deemed to be the decision of the Association, and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XV

15. General Provisions.

15.1 Legal Proceedings; Arbitration; Actions Arising From Restrictions.

Failure to strictly comply with any of the terms of the Restrictions by an Owner, his Family, guests, employees, contractors, invitees or tenants, shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision, or any other provision hereof. The Board, any Owner (not at the time in default hereunder), or Declarant (so long as Declarant is an Owner) shall be entitled to bring an action for damages against any defaulting Owner, and in addition may enjoin any violation of this Declaration. Any judgment rendered in any action or proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the Court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, late payment fee, costs of collection and court costs, and interest thereon. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive. Each Owner shall have a right of action against the Association for the failure by the Association to comply with the Restrictions.

Notwithstanding anything above to the contrary, any action or claim for enforcement of the Restrictions shall be subject to the following provisions:

(a) Claims for Declaratory Relief or Enforcement of Project Documents: Prior to the filing of an enforcement action for declaratory, injunctive, or writ relief in conjunction with a claim for monetary damages not in excess of Five Thousand Dollars (\$5,000), the Board, or any Owner who seeks such relief, shall first endeavor to submit the matter to alternative dispute resolution in compliance with the provisions of California Civil Code Sections 1369.510-1369.580.

(b) The Board shall comply with the requirements of California Civil Code Section 1369.590 by providing Members of the Association annually with a summary of the provisions of Article 2 (commencing with California Civil Code section 1369.510) of Chapter 7 of Title 6 (Division 2, Part 4) of the California Civil Code, including the following language:

“Failure of a Member of the Association to comply with the alternative dispute resolution requirements of Section 1369.520 of the California Civil Code may result in the loss of your right to sue the Association or another Member of the Association regarding enforcement of the Governing Documents or the applicable law.”

15.2 Notification of Construction Claims.

(a) Before the Association or any Owner commences an action for damages against Declarant, Declarant’s general contractor or broker, or either of their agents and employees, based upon a claim for defects in the design or construction of the Common Interest Development or any portion thereof, all of the requirements of subsections (b), (c) and (d) below shall be met.

(b) A resolution authorizing the Board to commence an action must be approved by Members representing more than fifty percent (50%) of the voting power of the Association. The Board shall provide notice by first-class mail to all Members of a special meeting of Members, for the purpose of voting to authorize the Board to initiate action based upon a claim for defects in the design or construction of the Common Interest Development or any portion thereof, not less than thirty (30) nor more than sixty (60) days prior to the date of such a meeting. The notice to the Members shall include all of the following information:

- (i) A description of the disputes;
- (ii) A certification from an engineer licensed in the State of California that a repair issue exists, along with a description of the scope of work necessary to cure such repair issue;
- (iii) The estimated cost to repair such repair issue;
- (iv) The name and professional background of the attorney(s) the Association may want to retain to pursue the claim against Declarant and a description of the relationship between such attorney and any members of the Board (if any);

(v) Estimated attorneys' fees, expert fees and other costs necessary to pursue the claim against Declarant and the source of funds which will be used to pay such fees and expenses;

(vi) The estimated time necessary to conclude the action against Declarant;

(vii) Potential benefits and adverse consequences of a civil action, including among other things, potential effects on property values;

(viii) How the action will be funded;

(ix) Offers of settlement; and

(x) How proceeds from the action or settlement of such action would be used.

(c) All applicable requirements of California Civil Code Sections 1368.5, 1375, as such Sections may be amended from time to time, or any successor statute thereto shall be satisfied (notwithstanding the fact that said Section 1375 does not by its terms apply to Owners), including, without limitation, all notice and dispute resolution requirements.

(d) The Association shall finance any legal proceeding with monies that are specifically collected for same and may not borrow money or use the reserve funds or other monies collected for specific Association obligations other than legal fees.

15.3 Notice to Members of Other Civil Action Against Declarant.

(a) Not later than thirty (30) days prior to the filing of any civil action by the Association against the Declarant for alleged damage to the Common Property, alleged damage to the Separate Interests that the Association is obligated to maintain or repair, or alleged damage to the Separate Interests that arises out of, or is integrally related to, damage to the Common Property or Separate Interests that the Association is obligated to maintain or repair, the Board of Directors of the Association shall provide written notice to each Member of the Association who appears on the records of the Association when the notice is provided. This notice shall specify all of the following:

(i) That a meeting will take place to discuss problems that may lead to the filing of a civil action.

(ii) The options, including civil actions, that are available to address the problems.

(iii) The time and place of this meeting.

(b) Notwithstanding subdivision (a), if the Association has reason to believe that the applicable statute of limitations will expire before the Association files the civil

action, the Association may give the notice, as described above, within thirty (30) days after the filing of the action.

15.4 Alternative Dispute Resolution.

(a) Disputes and Remedies. In addition to the notification and dispute resolution procedures set forth in Sections 15.2 and 15.3 and notwithstanding anything in the Restrictions to the contrary, it is the desire and intention of this Section 15.4 to provide an expedited means of resolving any claims, disputes and disagreements which may arise between Owner or the Association and the Declarant (individually a "Declarant Party," collectively the "Declarant Parties") after the close of escrow or other conveyance of any portion of the Property by Declarant concerning the Property and/or any express or implied warranties that are not resolved pursuant to any applicable statutory dispute resolution procedures (individually referenced to herein as "Dispute" and collectively as "Disputes"). Initially, the Declarant Parties will attempt to resolve any Dispute asserted by an Owner or the Association of which it is given notice. If the Dispute cannot be resolved between the parties in this manner, it will be decided through the arbitration procedure as set forth below. Alternatively, a Declarant Party, an Owner or the Association may elect to resolve such Disputes through a small claims court proceeding. **THIS PROCESS INVOLVES WAIVER OF THE RIGHT TO A JURY TRIAL. BY EXECUTING THIS DECLARATION, DECLARANT, AND BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, EACH OWNER AND THE ASSOCIATION, AGREE TO BE BOUND BY THE PROVISIONS OF THIS SECTION 15.4.**

(1) Notice. Any person with a claim defined as a Dispute, above ("Claimant"), shall notify the Declarant Party in writing of the claim, which writing shall describe the nature of such claim and any proposed remedy ("Claim Notice").

(2) Right to Inspect and Right to Take Corrective Action. Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, the Declarant Party and the Claimant(s) shall meet at a mutually-acceptable place within or near the Project to discuss the Dispute. At such meeting or at such other mutually agreeable time, Declarant Party and its representatives shall have full access to the property that is subject to the Dispute claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing the same in a manner deemed appropriate by Declarant Party which rights shall continue until such time as the Dispute is resolved as provided in this Section 15.4. The parties to the Dispute shall negotiate in good faith in an attempt to resolve the claim. If Declarant Party elects to take any corrective action, Declarant Party and its representatives and agents shall be provided full access to the Project that is subject to the Dispute to take and complete corrective action.

(3) California Civil Code Sections 1368.5, 1375, 1375.05 and 1375.1. Nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code Section 1368.5 and Section 15.3 of the Declaration. If the Dispute is subject to the provisions of California Civil Code Sections 1375, 1375.05 and 1375.1, as they may be amended from time to time, compliance with the procedures of these Sections shall satisfy the requirements of Sections 15.4(a)(1) and 15.4(a)(2), as applicable. With respect to any suit that would be governed by California Civil Code Section 1375, and as hereafter

amended, if the parties had not agreed to arbitration hereunder, the Association or any other party required to proceed under Section 1375 as a condition to filing a complaint must do so as a condition to commencing an arbitration. Compliance with California Civil Code Section 1368.5 is a condition to the Association's commencing an arbitration.

(4) **Mediation.** If the parties to the Dispute that is not subject to California Civil Code Section 1375 cannot resolve the claim pursuant to the procedures described in Section 15.4(a)(2) above (including, if applicable, California Civil Code Section 1375 procedures), the matter shall be submitted to mediation pursuant to the mediation procedures adopted by the Judicial Arbitration and Mediation Services ("JAMS") (except as such procedures are modified by the provisions of this Section) or any successor thereto or to any other entity offering mediation services that is acceptable to such parties. No person shall serve as a mediator in any Dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties to the Dispute participating in the mediation. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. Except as provided in the Declaration of Alternative Dispute Resolution for The Summit on Sixth ("ADR Declaration") as defined in Section 1.25 above, the Association and each Owner covenants that each shall not commence any litigation against Declarant without complying with the procedures described in this Section 15.4(a)(4).

(A) **Position Memoranda; Pre-Mediation Conference.** Within ten (10) days of the selection of the mediator, each party to the Dispute participating in the mediation shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties to the Dispute participating in the mediation shall attend unless otherwise agreed. The mediation shall be commenced within ten (10) days following the submittal of the memoranda and shall be concluded within fifteen (15) days from the commencement of the mediation unless the parties to the Dispute participating in the mediation mutually agree to extend the mediation period. The mediation shall be held in the county in which the Project is located or such other place as is mutually acceptable to the parties to the Dispute participating in the mediation.

(B) **Conduct of Mediation.** The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Dispute participating in the mediation and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the parties to the Dispute participating in the mediation agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties to the Dispute participating in the mediation.

(C) **Exclusion Agreement.** Prior to the commencement of the mediation session, the mediator and all parties to the Dispute participating in the mediation shall execute an agreement pursuant to California Evidence Code Section 1115, *et seq.* or any successor statute in order to exclude the use of any testimony or evidence produced at the

mediation in any subsequent dispute resolution forum, including, but not limited to, court proceedings, reference proceedings or arbitration hearings. Pursuant to California Evidence Code Section 1115, *et seq.* the agreement shall specifically state that evidence of anything said or of any admission made in the course of the mediation is not admissible evidence, and disclosure of any such evidence shall not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given. Unless the document provides otherwise, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence; and disclosure of any such document shall not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given. The provisions of California Evidence Code Sections 1115 through 1128 shall also be applicable to such mediation process.

(D) Persons Permitted at Sessions. Persons other than the parties to the Dispute participating in the mediation, their representatives and the mediator may attend mediation sessions only with the permission of the parties to the Dispute participating in the mediation and the consent of the mediator; provided, however, that such permission and consent shall not be required to allow participation of such party's insurer in the mediation to the extent required under such parties' liability insurance policy. Confidential information disclosed to a mediator by such parties or by witnesses in the course of the mediation while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

(E) Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute participating in the mediation unless they agree otherwise. Each party to the Dispute participating in the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

(5) Arbitration. Should either proceedings governed by California Civil Code Section 1375, or mediation pursuant to Section 15.4(a)(4) above not be successful in resolving any Dispute, any and all claims, controversies, breaches or disputes (each a "dispute") by or between or among the Association, any Owner or Owners, and/or Declarant Party arising from or related to this Declaration, the Association Property, any Unit, the sale of any Unit, or any transaction related hereto, whether such dispute is based on contract, tort, statute, or equity shall be determined and resolved by the alternative dispute resolution procedures set forth below:

(A) Waiver of Trial by Judge or Jury. The dispute shall be resolved through binding arbitration. The Claimant and Declarant each gives up the right to have their respective claims and defenses decided by a judge or a jury. Instead all claims and disputes will be decided by the arbitrator.

(B) Rules Applicable to All Cases. The arbitration will be conducted by Judicial Arbitration and Mediation Services ("JAMS") in accordance with the JAMS rules ("JAMS Rules") then applicable to the claims presented, as supplemented by this

Section. The following supplemental rules shall apply to all arbitration proceedings and shall govern in the event of a conflict between the rules set forth below and the JAMS Rules.

(i) Qualification of Arbitrators. The arbitrator shall be neutral and impartial and either a retired judge or a member or former member of the California State Bar with at least ten (10) years experience as a practicing lawyer in the area of construction law.

(ii) Appointment of Arbitrator. The arbitrator to preside over the dispute shall be selected in accordance with the JAMS Rules, but no later than sixty (60) days after a notice of claim is filed.

(iii) Expenses. All fees charged by JAMS and the arbitrator shall be advanced by Declarant. If Declarant is the prevailing party in the arbitration, the arbitrator may, in his or her discretion and only to the extent permitted by law and the JAMS minimum standards of procedural fairness, make a final allocation in the award of the costs of the arbitration, including directing the Claimant to reimburse the Declarant all or part of the JAMS fee and arbitrator's fee advanced by the Declarant; provided that the arbitrator may not award against the Association or an Owner any expenses in excess of those that would be recoverable as costs if the dispute had been litigated to final judgment in court.

(iv) Preliminary Procedures. If state or federal law requires the Claimant or Declarant to take steps or procedures before commencing an action in court, then the Claimant or Declarant must take such steps or follow such procedures, as the case may be, before commencing the arbitration. Nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code Sections 1368.5, 1375, 1375.05 or 1375.1.

(v) Rules of Procedure. The arbitration shall be administered by JAMS pursuant to its streamlined arbitration rules and procedures when the amount in controversy is Two Hundred Fifty Thousand Dollars (\$250,000) or less.

(vi) Participation By Other Parties. Each Claimant and Declarant, to the extent either such party is defending a claim in the arbitration, may, if it chooses, have all necessary and appropriate parties included as parties to the arbitration.

(vii) Rules of Law. The arbitrator must follow California substantive law (including statutes of limitations) but strict conformity with the Rules of Evidence is not required, except that the arbitrator shall apply applicable law relating to privilege and work product. The arbitrator shall be authorized to provide all recognized remedies available at law or equity for any cause of action.

(viii) Attorney's Fees and Costs. Each party shall bear its own attorneys' fees and costs (including expert witness costs) in the arbitration.

(C) Additional Rules Applicable to Certain Cases. In any arbitration in which a claim of any party exceeds Two Hundred Fifty Thousand Dollars

(\$250,000) in value, the following additional rules will supplement the JAMS rules and govern in the event of a conflict between the following rules and the rules set forth above, the JAMS rules, or both.

(i) Qualifications of Arbitrator. The arbitrator shall be neutral and impartial and either a retired judge or a member or former member of the California State Bar with at least fifteen (15) years experience as a practicing lawyer in the area of construction law with substantial experience in the resolution of complex construction disputes.

(ii) Rules of Procedure. The arbitration shall be administered by JAMS pursuant to its comprehensive arbitration rules and procedures.

(iii) Written Decision. Within thirty (30) days after the hearing is closed, the arbitrator must issue a written decision. If any party requests it, the arbitrator must issue a reasoned award.

(D) AGREEMENT TO ARBITRATION AND WAIVER OF JURY TRIAL. BY EXECUTING THIS DECLARATION, DECLARANT, AND BY ACCEPTING A DEED FOR THE ASSOCIATION PROPERTY OR A UNIT, AS THE CASE MAY BE, THE ASSOCIATION AND EACH OWNER, AGREE (1) TO HAVE ANY DISPUTE DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT; (2) TO GIVE UP ANY RIGHTS THEY MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL; AND (3) TO GIVE UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS DECLARATION. IF ANY PARTY REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT.

(E) Federal Arbitration Act. The Federal Arbitration Act (9 U.S.C. §1, *et seq.*) now in effect and as it may be hereafter amended will govern the interpretation and enforcement of these arbitration provisions.

(F) Final and Binding Award. The decision of the arbitrator shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the Federal Arbitration Act.

(G) Severability. If the arbitrator or any court determines that any provision of this Section is unenforceable for any reason, that provision shall be severed, and proceedings in this Section shall be conducted under the remaining enforceable terms of this Section.

(H) Waiver of Jury Trial. In the event the foregoing arbitration provision is held not to apply or is held invalid, void or unenforceable in its entirety for any reason, all disputes shall be tried before a judge in a court of competent jurisdiction without a jury. The judge in such court of competent jurisdiction shall have the power to grant all legal and equitable remedies and award compensatory damages. This mutual waiver of jury trial shall be binding upon their respective successors and assigns and upon all persons and entities asserting rights or claims or otherwise acting on behalf of Declarant or Claimant or their successors and assigns.

(I) Application of Award. Any proceeds awarded to the Association or any Owner arising from any dispute by settlement, award or otherwise shall be applied first for the purpose of repairing any defect claimed under such dispute or replacing reserve funds previously utilized by the Association to cause such repairs and then to the costs of such litigation. Any excess proceeds shall be applied as determined by the Board or the Owner, subject to any requirements established by the non-profit mutual benefit laws of the State of California and any other applicable laws.

(J) Statute of Limitations. Nothing in this Section shall be considered to toll, stay, reduce or extend any applicable statute of limitations; provided, however, that the Declarant, the Association or any Owner shall be entitled to commence a legal action which in the good faith determination of the Declarant, the Association or Owner is necessary to preserve the Declarant's, the Association's or any Owner's rights under any applicable statute of limitations, provided that the Declarant, Association or Owner shall take no further steps in processing the action until it has complied with the procedures described above.

(K) Notwithstanding the foregoing, an aggrieved party may seek relief in a small claims court of competent jurisdiction, and nothing in this agreement shall prevent the parties from agreeing to mediate a dispute at any time.

(b) Notwithstanding any other provision of this Declaration to the contrary, this Section 15.4 shall not be amended without the consent of Declarant and the vote or approval by written ballot of at least (a) ninety percent (90%) of the voting power of the Members of the Association other than Declarant, and (b) at least ninety percent (90%) of the Mortgagees.

15.5 Violation of Restrictions.

Without in any way limiting the generality of the foregoing, if the Board of Directors determines that there is a violation of any provision of this Declaration, or the Architectural Committee determines that an Improvement which is the maintenance responsibility of an Owner is in need of installation, repair, restoration or painting, then the Board shall give written notice to the responsible Owner of the condition or violation complained of. Unless the Architectural Committee has approved in writing corrective plans proposed by the Owner to remedy the condition complained of within such period of time as may be determined reasonable by the Board after it has given said written notice, and such corrective work so approved is completed thereafter within the time allotted by the Board, the Board, after Notice and Hearing, shall undertake to remedy such condition or violation complained of, and the cost

thereof shall be charged to the Owner whose Unit is the subject matter of the corrective work. Such cost shall be deemed to be a Special Assessment to such Owner and shall be subject to enforcement and collection by the Board in accordance with the procedures provided for in this Declaration. The Board may also adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner for the failure of such Owner, or of a resident of or visitor to such Owner's Unit, to comply with any provision of the Restrictions. Such fines or penalties shall be deemed to be a Special Assessment and may only be assessed by the Board after Notice and Hearing.

15.6 Severability.

The provisions of this Declaration shall be deemed independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provisions hereof.

15.7 Interpretation.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the creation and operation of a condominium development and for the maintenance of Common Property, and any violation of this Declaration shall be deemed to be a nuisance. The Article and Section headings, titles and captions have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the masculine, feminine and neuter shall each include the other, unless the context dictates otherwise. In interpreting the Restrictions and the deed to any Unit, the physical as-built boundaries of Improvements which are constructed or reconstructed in substantial accordance with the plans for the Project shall be conclusively presumed to be the boundaries of the Units, regardless of settling or lateral movement of the Improvements and regardless of minor variances between Unit boundaries, as defined in this Declaration or any Unit deed, and the boundaries of those Improvements, as constructed or reconstructed. As used in this Declaration, the term "including" shall be construed and understood to mean "including, without limitation" or "including, but not limited to."

15.8 Mergers or Consolidations.

Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Property, together with the covenants and restrictions established upon any other property, as one (1) plan.

15.9 Use of Common Property.

The Board of Directors shall have the right to limit the number of guests that an Owner or such Owner's tenant may permit to use the guest parking areas, if any, or other facilities, including recreation facilities, if any, and the Board shall have the right to set further reasonable restrictions on the time and manner of use of said guest parking areas, any recreation facilities, and other facilities in accordance with the Rules and Regulations, including, without limitation, Rules and Regulations restricting or prohibiting the use of all or designated portions of the recreation facilities of the Property by minors, guests of an Owner or his tenants.

15.10 No Public Right or Dedication.

Except as may otherwise be expressly provided herein, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use; provided, that the foregoing provisions shall not be construed or understood to limit the effectiveness of any public dedication expressly set forth on any subdivision map Recorded or any other instrument with respect to the Property, or any portion thereof.

15.11 No Representations or Warranties.

No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees in connection with the Property, or any portion thereof, concerning its physical condition, zoning, compliance with applicable laws, or fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a Condominium Project, except as specifically and expressly set forth in this Declaration and except as may be filed by Declarant from time to time with the DRE.

15.12 Nonliability and Indemnification.

(a) General Limitation. Except as specifically provided in the Restrictions or as required by law, no right, power, or responsibility conferred on the Board or the Architectural Committee by this Declaration, the Articles or the Bylaws shall be construed as a duty, obligation or disability charged upon the Board, the Architectural Committee, any member of the Board or of the Architectural Committee, or any other officer, employee or agent of the Association. No such Person shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's acts or omissions within what such Person reasonably believed to be the scope of his Association duties ("Official Acts"), except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. No such Person shall be liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct.

(b) Indemnification. The Association shall pay all expenses incurred by, and satisfy any judgment or fine levied against, any person as a result of any action or

threatened action against such Person to impose liability on such Person for his Official Acts, provided that:

(i) The Board determines that such Person acted in good faith and in a manner such Person reasonably believed to be in the best interests of the Association;

(ii) In the case of a criminal proceeding, the Board determines that such Person had no reasonable cause to believe his conduct was unlawful; and

(iii) In the case of an action or threatened action by or in the right of the Association, the Board determines that such Person acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Any determination of the Board required under this Section 15.12 must be approved by a majority vote of a quorum consisting of Directors who are not parties to the action or threatened action giving rise to the indemnification. If the Board fails or refuses to make any such determination, such determination may be made by the vote or written consent of a majority of a quorum of the Members of the Association, provided that the Person to be indemnified shall not be entitled to vote.

Payments made hereunder shall include amounts paid and expenses incurred in settling any such action or threatened action. This Section 15.12 shall be construed to authorize payments and indemnification to the fullest extent now or hereafter permitted by applicable law.

The entitlement to indemnification hereunder shall inure to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any Person entitled to such indemnification.

15.13 Notices.

Except as otherwise provided in this Declaration, in each instance in which notice is to be given to an Owner, the same shall be in writing and may be delivered personally to the Owner, in which case personal delivery of such notice to one (1) or more co-owners of a Condominium or to any general partner of a partnership owning a Condominium shall be deemed delivery to all co-owners or to the partnership, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address shall have been furnished, to the street address of such Owner's Unit. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Board of Directors in which case the notice provisions of the Bylaws of the Association shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners. Any notice to be given to the Declarant shall be delivered personally, or sent by registered or certified mail, return

receipt requested, addressed to the principal office of the Declarant, or such other address as may be provided from time to time by the Declarant.

15.14 Priorities and Inconsistencies.

If there are conflicts or inconsistencies between this Declaration and the Articles of Incorporation, the Bylaws of the Association, or any Condominium Plan Recorded in furtherance of the Project contemplated by this Declaration, then the terms and provisions of this Declaration shall prevail.

15.15 Constructive Notice and Acceptance.

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Condominium or other portion of the Property does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof.

15.16 Declarant Delivery of Documents.

Commencing not later than ninety (90) days after the Close of Escrow for the sale of the first Condominium in the Project, copies of the documents listed below, as soon as readily obtainable, shall be delivered by the Declarant to the Board of Directors at the office of the Association, or at such other place as the Board of Directors shall prescribe. The obligation to deliver the documents listed below shall apply to any documents obtained by the Declarant no matter when obtained, provided, however, such obligation shall terminate upon the earlier of (1) the conveyance of the last Condominium in the Project or (2) three (3) years after the expiration of the most recently issued Final Subdivision Public Report for the Project:

- (1) The Recorded Subdivision Map for the Project;
- (2) The Recorded Condominium Plan(s) for the Project, and all amendments thereto;
- (3) The deeds and easements executed by the Declarant conveying the Association Property to the Association, to the extent applicable;
- (4) The Recorded Declaration, including all amendments thereto;
- (5) The Association's Articles, and all amendments thereto;
- (6) The Association's Bylaws, and all amendments thereto;
- (7) All architectural guidelines and all other rules regulating the use of an owner's interest in the Project or use of the Common Property which have been promulgated by the Association;

(8) The plans approved by the local agency or county where the subdivision is located for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear restrictions on their commercial exploitation or use and may contain disclaimers regarding their accuracy;

(9) All notice of completion certificates issued for Association Property Improvements;

(10) Any bond or other security device in which the Association is the beneficiary;

(11) Any written warranty being transferred to the Association for Common Property equipment, fixtures or improvements;

(12) Any insurance policy procured for the benefit of the Association, its governing board or the Common Property;

(13) Any lease or contract to which the Association is a party;

(14) The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Members, of the governing body and of committees of the governing body of the Association; and

(15) Any instrument referred to in California Business and Professions Code Section 11018.6(d) but not described above which establishes or defines the common, mutual or reciprocal rights or responsibilities of Members of the Association.

15.17 Security.

The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Project; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Project. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Owner. Neither Declarant nor the Association shall be held liable for any loss or damage by reason of the failure to provide adequate security or the ineffectiveness of safety measures undertaken.

15.18 City of Los Angeles Housing Authority.

The Project is subject to restrictions set forth in that certain Agreement for Development of Units for Lease or Sale (15% Ordinance) recorded October 31, 2007 as Instrument No. 2007-2460610 in the Recorder's Office of Los Angeles County, California ("Development Agreement"). The Development Agreement grants the Housing Authority of the City of Los Angeles the following rights: (i) a continuing right of first refusal to lease at fair market value any of the Units in the Project, up to a total of 15% of the total number of Units in

this Project, and (ii) a continuing right to require that any Unit in the Project available for sale or resale, up to a total of 15% of the total number of Units in the Project, be sold at the then fair market value only to low or moderate income households approved by the Housing Authority. When funding is available, the Housing Authority may notify the Owners in the Project that it may wish to exercise its rights under the Development Agreement. After receipt of such notification, each Owner shall immediately notify the Housing Authority in writing of the availability of such Owner's Unit for sale or lease as it occurs. Each Owner must indicate the fair market value of his Unit in the notification to the Housing Authority. The Housing Authority shall be deemed to have elected to not exercise its rights pursuant to the Development Agreement, if the Housing Authority fails to respond within seven (7) days following receipt of a notice from an Owner. Any sale of a Unit subject to the provisions of the Development Agreement without affording the Housing Authority its rights under the Development Agreement shall be voidable and may be set aside by the Housing Authority in addition to any other remedy provided by law.

ARTICLE XVI

16. Owner's Acknowledgments and Waivers.

16.1 Potential Condensation on Exterior Glass Window.

By acceptance of a deed to a Condominium, each Owner hereby acknowledges and agrees that due to the design and installation of the acoustical insulation in the areas where the demising wall meets the curtain walls, condensation may form on the exterior glass window in such areas. This condensation may cause staining and create a white film on the exterior glass window. Each Owner further acknowledges and agrees that (i) under no circumstances shall Declarant be responsible for any adverse impacts related to such occurrence, and (ii) Owner waives any and all causes of actions against Declarant and its respective directors, officers, employees, agents, representatives and consultants for any damages which may arise from or relate to any such adverse impacts and/or conditions.

16.2 Disclaimer Regarding Mixed Use Nature of Project.

EACH OWNER TAKING TITLE TO A UNIT ACKNOWLEDGES AND AGREES THAT THE COMMERCIAL LOTS MAY BE LEASED AND/OR OTHERWISE UTILIZED BY RETAIL BUSINESSES AND OTHER STORES THAT MAY BE OPEN FOR BUSINESS AND/OR ACCEPT DELIVERIES LATE AT NIGHT OR EARLY IN THE MORNING AND THAT THE SOUNDS, SIGHTS AND SMELLS OF SUCH ACTIVITIES MAY BE PERCEIVED FROM OTHER PORTIONS OF THE PROJECT. EACH SUCH OWNER TAKING TITLE TO A UNIT FURTHER WAIVES ANY RIGHT IT MIGHT OTHERWISE HAVE TO SUE DECLARANT, ANY COMMERCIAL OWNER, OR ANY TENANT FOR INJUNCTIVE RELIEF OR DAMAGES ARISING FROM SUCH ACTIVITIES UNDER ANY THEORY OF LEGAL LIABILITY, INCLUDING WITHOUT LIMITATION NUISANCE, BREACH OF THIS AGREEMENT OR ANY IMPLIED COVENANT, OR TRESPASS. THE FOREGOING SHALL NOT, HOWEVER, LIMIT THE OBLIGATION OF EACH COMMERCIAL OWNER, OCCUPANT AND PERMITTEE TO COMPLY WITH ALL APPLICABLE LAWS OR LIMIT THE RIGHT OF ANY OWNER, OCCUPANT OR

PERMITTEE TO FILE A COMPLAINT WITH THE APPROPRIATE GOVERNMENT AGENCIES FOR VIOLATION OF SUCH LAWS.

16.3 Disclaimer Regarding Sound Transmission.

ALTHOUGH THE PROJECT IS CONSTRUCTED IN COMPLIANCE WITH APPLICABLE BUILDING CODE REQUIREMENTS REGARDING SOUND INSULATION, THE PROJECT IS NOT SOUND PROOF. OWNERS LIVE IN CLOSE PROXIMITY TO EACHOTHER AND SHARE COMMON WALLS, FLOORS AND CEILINGS. THE PLUMBING, HVAC SYSTEM, STAIRWAYS, ENTRY AREAS, GARAGE GATES AND ELEVATOR SYSTEMS WILL GENERATE NOISE. AIRBORNE AND IMPACT SOUNDS GENERATED BY OCCUPANTS WITHIN THEIR UNITS WILL BE HEARD. AIRBORNE SOUNDS MAY INCLUDE, BUT NOT BE LIMITED TO CONVERSATIONS, MUSICAL INSTRUMENTS, AUDIO EQUIPMENT, TELEVISIONS AND THE LIKE. IMPACT SOUNDS MAY INCLUDE, BUT NOT BE LIMITED TO, FOOTFALL SOUNDS, DOOR CLOSING OR SLIDING, OBJECTS BEING DROPPED OR DRAGGED, ETC. OTHER SOURCES OF NOISE INCLUDE, BUT ARE NOT LIMITED TO, STREET SOUNDS AND ACTIVITIES ON COMMERCIAL LOTS AND NEIGHBORING PROPERTIES.

ARTICLE XVII

17. Additional Provisions.

Notwithstanding the provisions contained in the Restrictions, the Association and the Owners should be aware that there may be provisions of various laws, including, without limitation, the Davis-Stirling Common Interest Development Act contained in the California Civil Code, which may modify, supplement or override the Restrictions as a matter of law.

[SIGNATURES FOLLOW ON NEXT PAGE]

2008.

This Declaration is dated for identification purposes May 12.

"Declarant"

AZ 3223 6th STREET, LLC,
a Delaware limited liability company

By: 

Name: BENNETT KIM

Title: VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

On May 12, 2008, before me, Dawn Langford, Notary Public, personally appeared Bennett Kim, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature:  (Seal)

SUBORDINATION

The undersigned, as Beneficiary of the beneficial interest in and under a Deed of Trust recorded on June 27, 2007, as Instrument No. 2007-1539344, in the Official Records of Los Angeles County, California (the "Deed of Trust") hereby expressly subordinates said Deed of Trust and its beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit on Sixth ("Declaration") and to all interests to be conveyed to the Association in accordance with the Declaration. By executing this Subordination, the undersigned agrees that should the undersigned or its successors or assigns acquire title to all or any portion of the Property by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned and its successors and assigns will acquire title subject to the provisions of the Declaration, which shall remain in full force and effect.

Dated: June 6, 2008

AAREAL BANK, AG,
a German banking corporation

By: [Signature]

Name: Stefan Kelle

Its: Director

Credit Management America

ACKNOWLEDGMENT

_____)
_____)
_____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

Notarial File No. 598/2008

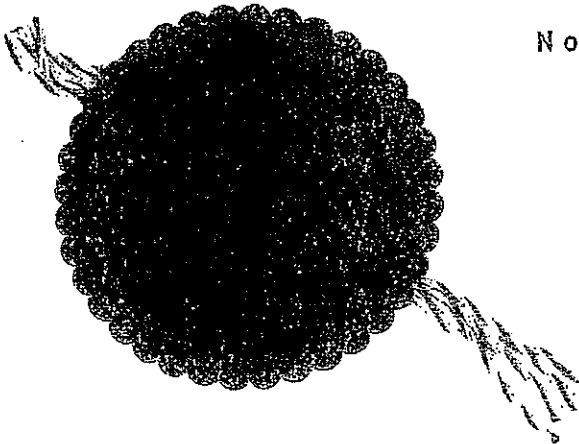


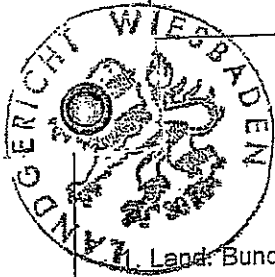
On the 6th day of June 2008, before me, the undersigned, a Notary Public, personally appeared

- a) Mr. Stefan Kolle, born on 29.04.1969,
- b) Mrs. Antonietta Michel, born on 02.07.1968,

personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the persons or the entity upon behalf of which the persons acted, executed the instrument.


Notary Public





Apostille

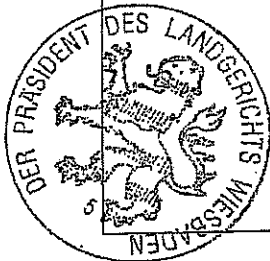
(Convention de La Haye du 5 octobre 1961)

1. Land: Bundesrepublik Deutschland

- Diese öffentliche Urkunde
2. ist unterschrieben von Dirk Reischauer
 3. in seiner Eigenschaft als Notar,
 4. sie ist versehen mit dem Siegel des Notars Dirk Reischauer in Wiesbaden

Bestätigt

5. in Wiesbaden
6. am 9. Juni 2008
7. durch den Präsidenten des Landgerichts
8. unter Nr. 91 Ef 1199/08
9. Stempel
10. Unterschrift




(Britzke)



Making the World a Little Smaller

CERTIFICATION OF TRANSLATION

AFFIDAVIT FOR TRANSLATION OF SAID DOCUMENT

American Language Services, a company specializing in the translation of documents, certifies the following:

- American Language Services has retained a professional translator for the attached German into English document. The document is referred to as:
"CC&Rs APOSTILLE"
- I affirm that such translation has been prepared by a duly qualified translator, who has confirmed that such translation is, to the best of their knowledge and belief, a true and accurate translation in English of the corresponding German document.
- I declare under the penalty of perjury that the forgoing is true and correct. Notwithstanding the foregoing affirmations, no liability is assumed for errors and omissions in the translation of the attached document.
- Executed on this 15th day of September, 2008, at Los Angeles, California.


DINA SPEVACK, DIRECTOR
AMERICAN LANGUAGE SERVICES

1950 SAWTELLE BLVD. SUITE 325 LOS ANGELES, CALIFORNIA 90025
TEL (310) 829-0741 FAX (310) 829-3222
translation@alsglobal.net
www.alsglobal.net

CALIFORNIA PROOF OF EXECUTION BY SUBSCRIBING WITNESS

State of California

County of Los Angeles

} ss.

On September 15, 2008, before me, the undersigned Notary Public, personally
Date

appeared LaJeune M. Meadoux, ☒ personally known to me - OR -
Name of Subscribing Witness

☐ proved to me on the oath/affirmation of _____,
Name of Credible Witness Who Identifies Subscribing Witness

who is personally known to me, to be the person whose name is subscribed to the within instrument as a witness thereto, who, being by me duly sworn, deposed and said that he/she

was present and saw Dina Spevack,
Name of Absent Principal Signer

the same person described in and whose name is subscribed to the within and annexed instrument in his/her authorized capacity(ies) as a party thereto, execute the same, and that said affiant subscribed his/her name to the within instrument as a witness at the request of

Dina Spevack

Name of Principal Signer (Again)



Place Notary Seal Above

WITNESS my hand and official seal.

Stephen Demirgian
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: "CC&RS APOSTILLE"

Document Date: June 9, 2008

Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity Claimed by Absent Principal Signer

☐ Individual

☒ Corporate Officer — Title(s): CEO

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Absent Signer (Principal) Is Representing: _____

RIGHT THUMBPRINT OF
SUBSCRIBING WITNESS

Top of thumb here

Apostille

(Hague Convention dated October 5, 1961)

1. Country: Federal Republic of Germany

This public document

2. bears the signature of Dirk Reischauer
3. in his capacity as Notary Public;
4. it bears the seal of Notary Public Dirk Reischauer in Wiesbaden

Certified

5. in Wiesbaden
6. on June 9, 2008
7. by the President of the District Court
8. as Number 91 Ef 1199/08
9. Stamp
10. Signature

[Stamp 1-upper left:] WIESBADEN DISTRICT COURT

[Stamp 2- lower left:] THE PRESIDENT OF THE WIESBADEN DISTRICT COURT

[Signature:] (Britzke)



Apostille

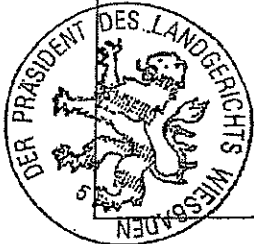
(Convention de La Haye du 5 octobre 1961)

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5. in Wiesbaden
6. am 9. Juni 2008
7. durch den Präsidenten des Landgerichts
8. unter Nr. 91 Ef 1199/08
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10. Unterschrift




(Britzke)